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The Gift of the
Common Council
of the City of
New York;
through the Clerk,
D. T. Valentine
Esq. April 12, 1847

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THE

CHARTER

OF

THE CITY OF NEW-YORK,

WITH NOTES THEREON.

ALSO,

A TREATISE

ON

THE POWERS AND DUTIES

OF THE

Mayor, Aldermen, and Assistant Aldermen,

AND

THE JOURNAL

OF

THE CITY CONVENTION.

Prepared at the Request of the Common Council,

BY CHANCELLOR KENT,

AND PUBLISHED UNDER THEIR DIRECTION.

NEW-YORK:

PRINTED BY CHILDS AND DEVOE, 80 VESEY-STREET.

1836.

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Rec'd Aug. 12, 1847
Light & Hackmen Council

Entered according to act of Congress in the year one thousand eight hundred and thirty-six, by JACOB MORTON, in behalf of the Common Council of the city of New-York, in the Clerk's Office of the Southern District of New-York.

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PREFACE.

This edition of the Charter of the City of New-York, with the notes thereon, and the subjoined treatise on the powers and duties of the Mayor, Aldermen, and Assistants, have been prepared in pursuance of certain Resolutions of the Common Council. The first of them was passed April 2nd, 1835, and the Editor was requested by it to write notes or a commentary on the Charter of the city, showing in a condensed form,

1. The powers vested in the Corporation by the Charter.

2. Those granted by legislative acts.

3. Those that have been lost by non-usage, legislative enactments or otherwise.

4. And those which remain.

The other Resolution was passed November 2nd, 1835, requesting the Editor to prepare a treatise on the power, duties and authority of the Mayor, Aldermen and Assistant Aldermen.

He was further requested to cause the same to be annexed to, and published with the Charter and Notes therein; and also to prepare the marginal references and a suitable Index to the whole work.

These Resolutions sufficiently explain the object of the volume.

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It has been the author's endeavor, to perform the trust with fidelity and accuracy, and he respectfully submits the work to the candor of the city authorities, by whom he was employed.

JAMES KENT.

New-York, March 19th, 1836.

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THE

CHARTER

OF THE

CITY OF NEW-YORK.

GEORGE the Second, by the grace of God, of Great Britain, France, and Ireland, king, defender of the faith, &c. To all whom these present letters shall come, *greeting:*

Whereas, on the twenty-second day of April, in the year of our Lord one thousand six hundred eighty and six, Thomas Dongan, then lieutenant governor and vice admiral of New-York and its dependencies, under our predecessor, James (the second) then king of England, &c. did make and execute a certain grant, or instrument in writing under the seal of the province of New-York, in these words following:

1. Thomas Dongan, lieutenant governor and vice admiral of New-York, and its dependencies, under his majesty James (the second) by the grace of God, of England, Scotland, France, and Ireland, king, defender of the faith, supreme lord and proprietor of the colony and province of New-York, and its dependencies in America, &c. To all to whom this shall come, *sendeth greeting: Whereas*, the city of New-York, is an ancient city within the said province, and the citizens of the said city have anciently been a body politic and corporate; and the citizens of the said city have held, used, and enjoyed, as well within the same, as elsewhere, in the said province, divers and sundry rights,

Gov. Dongan's charter of 1686.

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Recital of ancient rights and privileges.

liberties, privileges, franchises, free-customs, pre-eminences, advantages, jurisdictions, emoluments, and immunities, as well by prescription as by charter, letters patent, grants, and confirmations, not only of divers governors and commanders-in-chief, in the said province, but also of several governors, directors, generals, and commanders-in-chief, of the Nether Dutch nation, whilst the same was, or has been under their power and subjection. *And whereas* divers lands, tenements, and hereditaments, jurisdictions, liberties, immunities, and privileges, have heretofore been given and granted, or mentioned to be given and granted, to the citizens and inhabitants of the said city, sometimes by the name of Schout, Burgomasters, and Schephens of the city of New Amsterdam; and sometimes by the name of The Mayor, Aldermen, and Commonalty of the city of New-York; sometimes by the name of The Mayor, Aldermen, and Sheriff, of the city of New-York; sometimes by the name of, The Mayor and Aldermen of the city of New-York; and by divers other names as by their several letters patents, charters, grants, writings, records, and minuments, amongst other things, may more fully appear. *And whereas* the citizens and inhabitants of the said city have erected, built and appropriated, at their own proper costs and charges, several public buildings, accommodations, and conveniencies for the said city, *That is to say*, the City Hall, or Stat-House, with the ground thereunto belonging, two Market-Houses, the bridge into the dock, the wharves or docks, with their appurtenances; and the new burial place without the gate of the city; and have established and settled one ferry from the said city of New-York to Long Island, for the accommodation and conveniency of passengers, the said citizens, and travellers.

And whereas several the inhabitants of the said city,

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and of Manhattan's Island, do hold from and under his most sacred majesty respectively, as well by several and respective letters patents, grants, charters, and conveyances, made and granted by the late lieutenants, governors, or commanders-in-chief, of the said province, as otherwise, several and respective messuages, lands, tenements, and hereditaments, upon Manhattan's Island, and in the city of New-York, aforesaid, and as well as the said Mayor, Aldermen, and Commonalty, of the said city, and their successors, as also, the inhabitants of the said Manhattan's Island, and the city of New-York, aforesaid, and their heirs, and assigns respectively, may hold, exercise, and enjoy, not only such and the same liberties, privileges, and franchises, rights, royalties, free custom, jurisdictions, and immunities, as they have anciently had, used, held, and enjoyed; but also such public buildings, accommodations, conveniencies, messuages, tenements, lands, and hereditaments, in the said city of New-York, and upon Manhattan's Island aforesaid, which, as aforesaid, have been by the citizens and inhabitants erected and built, or which have, as aforesaid, been held, enjoyed, granted, and conveyed unto them, or any of them, respectively. A.

2. *Know ye, therefore*, That I, the said Thomas Dongan, by virtue of the commission and authority unto me given, and power in me residing, at the humble petition of the now Mayor, Aldermen, and Commonalty of the said city of New-York, and for divers other good causes and considerations, me thereunto moving, have given, granted, ratified, and confirmed, and by these presents, for and on the behalf of his most sacred majesty aforesaid, his heirs, successors, and assigns, do give, grant, ratify, and confirm unto

Grant to the corporation of all their former rights and privileges.

A. Note 1.

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the said Mayor, Aldermen and Commonalty of the said city, all and every such and the same liberties, privileges, franchises, rights, royalties, free customs, jurisdictions, and immunities, which they by the name of The Mayor, and Commonalty, or otherwise, have anciently had, held, used, or enjoyed, *Provided always*, That none of the said liberties, privileges, franchises, rights, free customs, jurisdictions, or immunities be inconsistent with, or repugnant to, the laws of his majesty's kingdom of England, or any other the laws of the general Assembly of this province; and the aforesaid public buildings, accommodations, and conveniencies in the said city, *That is to say*, The aforesaid City-Hall, or Stat-House, with the ground thereunto belonging, two Market-houses, the bridge into the dock, the wharves or dock, the said new burial place, and the aforementioned ferry, with their and every of their rights, members and appurtenances, together with all the profits, benefits and advantages which shall or may accrue and arise at all times hereafter, for dockage or wharfage, within the said dock, with all and singular the rents, issues, profits, gains, and advantages which shall or may arise, grow, or accrue by the said City-Hall, or Stat-House, and ground thereunto belonging, market-houses, bridge, dock, burying place, ferry, and other the above mentioned premises, or any of them; and also, all and every the streets, lanes, highways and alleys within the said city of New-York, and Manhattan's Island aforesaid, for the public use and service of the said Mayor, Aldermen and Commonalty of the said city, and of the inhabitants of Manhattan's Island aforesaid, and travellers there; together with full power, license and authority to the said Mayor, Aldermen, and Commonalty, and their successors for ever, to establish, appoint, order and

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direct the establishing, making, laying out, ordering, amending and repairing of all streets, lanes, alleys, highways, water-courses, ferry and bridges, in and throughout the said city of New-York and Manhattan's Island, aforesaid necessary, needful and convenient for the inhabitants of the said city, and Manhattan's Island aforesaid, and for all travellers and passengers there: *Provided always*, That this said license so as above granted, for the establishing, making, laying out of streets, lanes, alleys, highways, ferries and bridges, be not extended or be construed to extend, to the taking away of any person or person's right or property, without his, her, or their consent, or by some known law of the said Province. And for the considerations aforesaid, I do likewise give, grant, ratify, and confirm unto all and every the respective inhabitants of the said city of New-York and of Manhattan's Island aforesaid, and their several and respective heirs, and assigns, all and every these veral and respective messuages, tenements, lands, and hereditaments, situate, lying and being in the said city, and Manhattan's Island, aforesaid, to them severally and respectively granted, conveyed and confirmed, by any the late Governors, Lieutenants, or Commanders-in-Chief, of the said Province, or by any of the former Mayors and Aldermen of the said city of New-York, by deed, grant, conveyance, or otherwise howsoever; *To hold* to their several and respective heirs and assigns for ever. B.

Grants to the Corporation of all waste and vacated lands on Manhattan's Island.

3. And I do by these presents, give and grant unto the said Mayor, Aldermen and Commonalty of the said city of New-York, all the waste, vacant, unpatented and unappropriated lands, lying, and being within the said city of New-York, and on Manhattan's Island aforesaid, extending and reaching to the low water

B. Note II.

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mark, in, by and through all parts of the said city of New-York, and Manhattan's Island aforesaid, together with all rivers, rivulets, coves, creeks, ponds, waters and water-courses, in the said city and island, or either of them, not heretofore given or granted, by any of the former Governors, Lieutenants, or Commanders-in-Chief, under their or some of their hands and seals, or seal of the Province, or by any of the former Mayors or Deputy Mayors and Aldermen of the said city of New-York, to some respective person or persons, late inhabitants of the said city of New-York, or Manhattan's Island, or of other parts of the said province.

And I do by these presents, give, grant and confirm unto the said Mayor, Aldermen and Commonalty of the said city of New-York, and their successors for ever, the royalties of fishing, fowling, hunting, hawking, minerals and other royalties and privileges, belonging or appertaining to the city of New-York, and Manhattan's Island aforesaid (gold and silver mines only excepted) to have, hold and enjoy all and singular the premises, to the said Mayor, Aldermen and Commonalty of the said city of New-York, and their successors for ever, rendering and paying therefore unto his most sacred majesty, his heirs, successors or assigns, or to such officer or officers, as shall be appointed to receive the same, yearly for ever hereafter, the annual quit-rent or acknowledgment of one Beaver skin, or the value thereof in current money of this province, in the said city of New-York, on the five and twentieth day of March, yearly forever. C.

4. And, moreover, I will, and by these presents do grant, appoint, and declare, that the said city of New-York, and the compass, precincts and limits thereof, and the jurisdiction of the same, shall from henceforth

C. Note III.

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extend and reach itself, and may and shall be able to reach forth and extend itself, as well in length and in breadth as in circuit, to the farthest extent of, and in, and throughout all the said Island Manhattan's, and in and upon all the rivers, rivulets, coves, creeks, waters and water-courses, belonging to the same island, as far as low water mark. And I do also, for and on the behalf of his most sacred majesty aforesaid, his heirs and successors, firmly enjoin and command, that the aforesaid Mayor, Aldermen and Commonalty of the city aforesaid, and their successors, shall and may freely and quietly have, hold, use, and enjoy, the aforesaid liberties, authorities, jurisdictions, franchises, rights, royalties, privileges, exemptions, lands, tenements, hereditaments, and premises aforesaid, in manner and form aforesaid, according to the tenor and effect of the aforesaid grants, patents, customs, and letters patents of grant and confirmation, without the let, hinderance or impediment of me, or any of my successors, governors, lieutenants, or other officers whatsoever. D.

Jurisdiction of the city to extend to low water mark all round the Island Manhattan's.

5. And also, I do, for and on the behalf of his most sacred majesty aforesaid, his heirs and successors, grant to the Mayor, Aldermen and Commonalty of the said city of New-York, and their successors, by these presents, that for the better government of the said city, liberties and precincts thereof, there shall be forever hereafter within the said city, a Mayor and Recorder, Town Clerk, and six Aldermen, and six Assistants, to be appointed, nominated, elected, chosen and sworn, as hereinafter is particularly and respectively mentioned, who shall be forever hereafter called, *The Mayor, Aldermen and Commonalty* of the City of New-York; and that there shall be forever, one Chamberlain, or Treasurer, one Sheriff, one Coroner, one Clerk

City Officers.

D. Note IV.

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of the Market, one High Constable, seven sub-constables, and one marshal or serjeant at mace, to be appointed, chosen, and sworn in manner hereinafter mentioned. E.

6. And I do, by these presents, for and on the behalf of his most sacred majesty aforesaid, his heirs, successors and assigns, declare, constitute, grant, and appoint, that the Mayor, Recorder, Aldermen, and Assistants, of the said city of New-York, for the time being, and they which hereafter shall be the Mayor Recorder, and Aldermen, and Assistants, of the said city of New-York, for the time being, and their successors, forever hereafter, be, and shall be, by force of these presents, one body corporate and politic, in deed, fact, and name, by the name of, *The Mayor, Aldermen, and Commonalty of the city of* New-York; and them by the name of, *The Mayor, Aldermen, and Commonalty of the city of* New-York, one body corporate and politic, in deed, fact, and name; I do really and fully create, ordain, make, constitute, and confirm by these presents; and that, by the name of, *The Mayor, Aldermen, and Commonalty of the city of* New-York, they may have perpetual succession; and that they, and their successors, forever, by the name of, *The Mayor, Aldermen, and Commonalty of the city of* New-York, be, and shall be, forever hereafter, persons able, and in law capable, to have, get, receive, and possess lands, tenements, rents, liberties, jurisdictions, franchises, and hereditaments to them and their successors, in fee-simple, or for term of life, lives, or years, or otherwise; and also goods and chattels; and also, other things, of what nature, kind, or quality soever; and also to give, grant, let, set, and assign, the same lands, tenements, hereditaments, goods and chat-

Mayor, Recorder, Aldermen and Assistants made a body corporate and politic.

E. Note V.

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tels; and to do and execute all other things about the same, by the name aforesaid. And, also, that they be, and forever shall be hereafter, persons able in law, capable to plead, and be impleaded, answer, and be answered unto, defend, and be defended, in all or any of the courts of his said majesty, and other places whatsoever, and before any judges, justices, and other person or persons whatsoever, in all and all manner of actions, suits, complaints, demands, pleas, causes, and matters, whatsoever, of what nature, kind, or quality soever, in the same, and in the like manner and form as other people of the said province, being persons able, and in law capable, may plead, and be impleaded, answer, and be answered unto, defend, and be defended, by any lawful ways and means whatsoever; and that the said Mayor, Aldermen, and Commonalty of the said city of New-York, and their successors, shall and may forever hereafter, have one common seal to serve for the sealing of all and singular their affairs and businesses touching or concerning the said corporation. And it shall and may be lawful to and for the said Mayor, Aldermen, and Commonalty of the said city of New-York, and their successors, as they shall see cause to break, change, alter, and new-make, their said common seal, when, and as often as to them it shall seem convenient. F.

7. *And further, know ye*, That I have assigned, named, ordained, and constituted, and, by these presents, do assign, name, ordain, and constitute, Nicholas Bayard, now Mayor, of the said city of New-York, to be present Mayor of the said city; and that the said Nicholas Bayard, shall remain and continue in the office of Mayor there, until another fit person shall be appointed and sworn in the said office, according to

City Officers named.

F. Note VI.

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the usage and custom of the said city; and as in and by these presents is hereafter mentioned and directed. And I have assigned, named, ordained, and constituted, and, by these presents, do assign, name, ordain, and constitute, create and declare James Graham, Esq. to be the present Recorder of the said city; to do and execute all things, which unto the said office of Recorder of the said city doth, or may in any wise appertain or belong. And I have assigned, named, ordained, and constituted, and by these presents, do assign, name, ordain, constitute, create, and declare John West, Esq. Town Clerk of the said city; to do and execute all things which unto the office of Town Clerk may any wise appertain or belong. And I have named, assigned, constituted, and made, and by these presents, do assign, name, constitute, and make, Andrew Bown, John Robinson, William Beekman, John Delaval, Abraham De Peyster, and Johannes Kip, citizens and inhabitants of the said city of New-York, to be the present Aldermen of the said city. And also, I have made, assigned, named, and constituted, and by these presents, do assign, name, constitute, and make, Nicholas De Myer, Johannes Van Brugh, John De Brown, Teunis De Key, Abraham Corbit, and Wolfert Webber, citizens and inhabitants of the said city, to be the present Assistants of the said city. And, also, I have assigned, chosen, named, and constituted, and by these presents do assign, choose, name, and constitute Peter De Lanoy, citizen and inhabitant of the said city, to be the present Chamberlain or Treasurer of the city aforesaid. And I have assigned, named, constituted, and appointed, and by these presents, do assign, name, constitute, and appoint John Knight, Esq. one other of the said citizens there, to be present Sheriff of the said city, and have assigned, named, constituted, and appointed, and by these

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presents do assign, name, constitute, and appoint Jarvis Marshal, one other of the said citizens there, to be the present Marshal of the said city. And I do, by these presents, grant to the said Mayor, Aldermen, and Commonalty of the said city of New-York, and their successors, That the Mayor, Recorder, Aldermen, and Assistants of the said city for the time being, or the Mayor, Recorder, and any three or more of the Aldermen, and any three or more of the Assistants, for the time being, be and shall be called, The Common Council of the said city, and that they, or the greater part of them, shall or may have full power and authority, by virtue of these presents, from time to time, to call and hold common council, within the common council house, or City Hall of the said city: and there, as occasion shall be, to make laws, orders, ordinances, and constitutions, in writing; and to add, alter, diminish or reform them, from time to time, as to them shall seem necessary and convenient, (not repugnant to the prerogative of his most sacred majesty aforesaid, his heirs and successors, or to any of the laws of the Kingdom of England, or other the laws of the general Assembly of the province of New-York,) for the good rule, oversight, correction, and government of the said city and liberties of the same, and of all the officers thereof, and for the several tradesmen, victuallers, artificers, and of all other the people and inhabitants of the said city, liberties, and precincts, aforesaid, and for the better preservation of government, and disposal of all the lands, tenements, and hereditaments, goods and chattels of the said corporation; which laws, orders, ordinances, and constitutions, shall be binding to all the inhabitants of the said city, liberties, and precincts aforesaid; and which laws, orders, ordinances, and constitutions, so by them made, as aforesaid, shall be and remain in force for the space

Mayor, Recorder, and three or more Aldermen and Assistants to be a Common Council.

With power to make Laws and Ordinances.

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of three months, and no longer, unless they shall be allowed of, and confirmed by, the governor, and council for the time being. And I do further, on the behalf of his sacred majesty aforesaid, his heirs and successors, appoint and grant, that the said common council of the said city, for the time being, as often as they make, ordain, and establish such laws, orders, ordinances, and constitutions, as aforesaid, shall or may make, ordain, limit, provide, set, impose, and tax, reasonable fines and amerciaments against and upon all persons offending against such laws, orders, ordinances, and constitutions, as aforesaid, or any of them, to be made, ordained, and established as aforesaid, and the same fines, and amerciaments shall and may require, demand, levy, take, and receive by warrants under the common seal, to and for the use and behoof of the Mayor, Aldermen, and Commonalty of the said city, and their successors, either by distress and sale of the goods and chattels of the offender therein, if such goods and chattels may be found within the said city, liberties, and precincts thereof, rendering to such offender and offenders, the overplus, or by any other lawful ways or means whatsoever. G.

City officers, how and when to be appointed, & sworn.

8. And I do, by these presents, appoint and ordain the assigning, naming, and appointment of the Mayor and Sheriff of the said city, that it shall be as followeth, (viz.) upon the feast day of Saint Michael the Arch-angel, yearly, the Lieutenant Governor or Commander-in-Chief, for the time being, by and with the advice of his council, shall nominate and appoint such person as he shall think fit to be Mayor of the said city, for the year next ensuing; and one other person of sufficient ability and estate, and of good capacity in understanding, to be Sheriff of the said city of New-

G. Note VII.

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York, for the year next ensuing; and that such person as shall be named, assigned, and appointed Mayor, and such person as shall be named, assigned, and appointed Sheriff of the said city, as aforesaid, shall, on the fourteenth day of October then next following, take their several and respective corporal oaths, before the governor and council, for the time being, for the due execution of their respective offices, as aforesaid; and that the said Mayor and Sheriff, so to be nominated, assigned, and appointed, as aforesaid, snall remain and continue in their said respective offices, until another fit person shall be nominated, appointed, and sworn, in the place of Mayor; and one other person shall be nominated and appointed in the place of Sheriff of the said city, in manner aforesaid. *And further*, That according to the now usage and custom of the said city, the Recorder, Town Clerk, and Clerk of the Market of the said city, shall be persons of good capacity and understanding, and such persons as his most sacred majesty aforesaid, his heirs and successors, shall, in the said respective offices of Recorder, Town Clerk, and Clerk of the Market, appoint and commissionate; and for defect of such appointments, and commissionating, by his most sacred majesty aforesaid, his heirs and successors, to be such persons as the Lieutenant Governor and Commander-in-chief of the said province for the time being, shall appoint and commissionate; which persons so commissionated to the said offices of Recorder, Town Clerk, and Clerk of the Market, shall have, hold, and enjoy, the said offices, according to the tenor and effect of their said commissions, and not otherwise. *And further*, That the Recorder, Town Clerk, Clerk of the Market, Aldermen, Assistants, Chamberlain, High Constable, Petty Constables, and all other officers of the said city, before they, or any of them, shall be admitted to enter upon

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and execute their respective offices, shall be sworn faithfully to execute the same, before the Mayor, or any three or more of the Aldermen for the time being. *And I do*, by these presents, for and on the behalf of his most sacred majesty, his heirs and successors, grant and give power and authority to the Mayor and Recorder of the said city, for the time being, to Administer the same respective oaths to them accordingly. *And further*, I do by these presents, grant, for and on the behalf of his most sacred majesty aforesaid, his heirs and successors, that the Mayor and Recorder of the said city for the time being, and three or more of the Aldermen of the said city, not exceeding five, shall be justices and keepers of the peace of his most sacred majesty, his heirs and successors, and justices to hear and determine matters and causes within the said city and liberties, and precincts thereof; and that they or any three or more of them, whereof the Mayor and Recorder, or one of them, for the time being, to be there, shall and may forever hereafter, have power and authority, by virtue of these presents, to hear and determine all and all manner of petty larcenies, riots, routs, oppressions, extortions, and other trespasses and offences whatsoever, within the said city of New-York, and the liberties and precincts aforesaid, from time to time, arising and happening, and which arise or happen and any ways belonging to the offices of justices of the peace, and the correction and punishment of the offences aforesaid, and every of them, according to the laws of England, and the laws of the said Province; and to do and execute all other things in the said city, liberties, and precincts aforesaid, so fully and in ample manner, as to the commissioners assigned, and to be assigned for the keeping of the peace in the said county of New-York, doth or may belong. H.

Mayor & Recorder, with three or more Aldermen to hold sessions of the peace.

H. Note VIII.

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9. And, moreover, I do by these presents, for and on the behalf of his most sacred majesty aforesaid, his heirs and successors, appoint, that the Aldermen, Assistants, High Constable, and Petty Constables, within the said city, be yearly chosen on the feast day of St. Michael the Arch angel, forever, (viz.) one Alderman, one Assistant, and one Constable, for each respective ward, and one Constable for each division in the outward, in such public place in the said respective wards, as the Aldermen for the time being, for each ward, shall direct and appoint; and that the Aldermen, Assistants, and Petty Constables, be chosen by majority of voices of the inhabitants of each ward; and that the High Constable be appointed by the Mayor of the said city for the time being; and that the Chamberlain shall be yearly chosen, on the said feast day, in the said City Hall of the said city, by the Mayor and Aldermen and Assistants, or by the Mayor, or three or more of the Aldermen, and three or more of the Assistants of the said city, for the time being. *And I do*, by these presents, constitute and appoint the said John West, to be the present Town Clerk, Clerk of the Peace, and Clerk of the Court of Pleas, to be holden before the Mayor, Recorder, and Aldermen, within the said city, and the liberties and precincts thereof. *And further*, I do by these presents, for and on the behalf of his most sacred majesty aforesaid, his heirs and sucessors, require and strictly charge and command, that the Sheriff, Town Clerk, Clerk of the Peace, High Constable, Petty Constables, and all other subordinate officers in the said city, for the time being, and every of them respectively, jointly and severally, as cause shall require, shall attend upon the said Mayor, Recorder, and Aldermen, of the said city, for the time being, and every or any of them, according to the duty of their respective places, in and about the executing of such the commands, pre-

Aldermen, Assistants, and Constables, to be chosen yearly.

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cepts, warrants, and processes, of them and every of them, as belongeth and appertaineth to be done or executed; and that the aforesaid Mayor, Recorder, and Aldermen, and every of them, as justices of the peace for the time being, by their or any of their warrants, all and every person and persons for high treason or petty treason, or for suspicion thereof, or for other felonies whatsoever, and all malefactors and disturbers of the peace, and other offendors for other misdemeanors, who shall be apprehended within the said city, or liberties thereof, shall and may send and commit, or cause to be sent and committed, to the common goal of the said city, there to remain and be kept in safe custody, by the keeper of the said gaol, or his deputy, for the time being, until such offender and offenders shall be lawfully delivered thence. *And I do*, by these presents, for and on the behalf of his most sacred majesty aforesaid, his heirs and successors, charge and require the keeper and keepers of the said gaol for the time being, and his and their deputy and deputies, to receive, take, and in safe custody to keep, all and singular such person and persons so apprehended, or to be apprehended, sent, and committed, to the said gaol, by warrant of the said justices, or any of them as aforesaid, until he and they so sent and committed to the said gaol, shall from thence be delivered by due course of law. I.

Mayor, recorder and Aldermen, Justices of the Peace.

10. *And further*, I do grant and confirm for and on the behalf of his most sacred majesty aforesaid, his heirs and successors, that the said Mayor of the said city, for the time being, and no other (according to the usage and custom practised in the said city of New-York, in the times of my predecessors, the several Lieutenants, Governors, and Commanders-in-Chief, of this Province) shall have power and authority to give and

Mayor to grant Licenses to Tavern Keepers.

I. Note IX.

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grant licenses annually, under the public seal of the said city, to all tavern keepers, innkeepers, ordinary keepers, victuallers, and all public sellers of wine, strong waters, cyder, beer, or any other sort of liquors, by retail within the city aforesaid, Manhattan's Island, or their liberties and precincts thereof; and it shall and may be lawful to and for the said Mayor of the said city, for the time being, to ask, demand, and receive, for such license, by him to be given and granted, as aforesaid, such sum or sums of money, as he and the person to whom such license shall be given or granted, shall agree for, not exceeding the sum of thirty shillings for each license. All which money, as by the said Mayor shall be so received, shall be used and applied to the public use of the said Mayor, Aldermen, and Commonalty, of the said city of New-York, and their successors, without any account thereof to be rendered, made or done, to any of the Lieutenants or Governors of this province, for the time being, or any of their deputies. K.

11. *And know ye*, That for the better government of the said city, and for the welfare of the said citizens, tradesmen, and inhabitants thereof, I do by these presents, for and on the behalf of his most sacred majesty, his heirs and successors, give and grant to the said Mayor, Aldermen, and Commonalty of the said city, and their successors that the Mayor, Recorder, and Aldermen, or the Mayor and any three or more of the Aldermen for the time being, shall, from time to time, and all times hereafter, have full power and authority, under the common seal, to make free citizens, of the said city, and liberties thereof; and no person or persons whatsoever, other than such free citizens, shall hereafter use any art, trade, mystery, or manual occu-

Mayor, Recorder, and Aldermen, or the Mayor and any three or more Aldermen to make Freemen.

K. Note X.

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pation, within the said city, liberties, and precincts thereof, saving in the times of fairs there to be kept, and during the continuance of such fairs only. And in case any person or persons whatsoever, not being free citizens of the said city, as aforesaid, shall at any time hereafter use or exercise any art, trade, mystery, or manual occupation, or shall, by himself, themselves, or others, sell, or expose to sale, any manner of merchandize or wares whatsoever, by retail, in any house, shop, or place, or standing within the said city, or the liberties or precincts thereof: no fair being then kept, in the said city, and shall persist therein after warning to him or them given, or left by the appointment of the Mayor of the said city, for the time being, at the place or places where such person or persons shall so use or exercise any art, trade, mystery, or manual occupation; or shall sell or expose to sale, any wares or merchandizes, as aforesaid, by retail; then it shall be lawful for the Mayor of the said city for the time being, to cause such shop windows to be shut up, and also to impose such reasonable fine for such offence, not exceeding five pounds for every respective offence; and the same fine and fines so imposed, to levy and take by warrant under the common seal of the said city, for the time being, by distress and sale of the goods and chattels of the person or persons so offending in the premises, found within the liberties or precincts of the said city, rendering to the party or parties the overplus; or by any other lawful ways or means whatsoever to the only use of the said Mayor, Aldermen, and Commonalty, of the said city of New-York, and their successors, without any account to be rendered, made, or done, to the Lieutenants, Governors, or Commanders-in-Chief, of this province for the same: *Provided*, That no person or persons shall be made free as aforesaid, but such as are

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his majesty's natural born subjects, or such as shall first be naturalized by act of General Assembly; or shall have obtained letters of denization, under the hand of the Lieutenant Governor or Commander-in-Chief for the time being, and seal of the province: and that all persons to be made free as aforesaid, shall and do pay for the public use of the said Mayor, Aldermen, and Commonalty, of the said city, such sum and sums of money as heretofore hath been used and accustomed to be paid and received on their being admitted freemen as aforesaid: *Provided*, it is not exceeding the sum of five pounds. L.

12. *And further*, I do by these presents, for and on the behalf of his most sacred majesty aforesaid, his heirs and successors, grant to the Mayor, Aldermen, and Commonalty, of the said city, that they and their successors be forever, persons able and capable, and shall have power to purchase, have, take, and possess in fee simple, lands, tenements, rents, and other possessions within or without the same city; to them and their successors forever, so as the same exceed not the yearly value of one thousand pounds per annum, the statute of Mortmain, or any other law to the contrary notwithstanding; and the same lands, tenements, hereditaments, and premises, or any part thereof, to demise, grant, lease, set over, assign, and dispose at their own will and pleasure; and to make, seal and accomplish, any deed or deeds, lease or leases, evidences or writings, for or concerning the same, or any part thereof, which shall happen to be made and granted by the said Mayor, Aldermen, and Commonalty, of the said city for the time being. M.

Corporation to hold lands.

13. *And further*, I do by these presents, for and on

L. Note XI.
M. Note XII.

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the behalf of his most sacred majesty aforesaid, his heirs and successors, grant to the said Mayor, Aldermen, and Commonalty, that they and their successors shall and may forever hereafter, hold and keep within the said city, in every week of the year, three market days, the one upon Tuesday, the other upon Thursday, and the other upon Saturday, weekly for ever. N.

14. *And also*, I do by these presents, for and on the behalf of his most sacred majesty aforesaid, his heirs and successors, grant to the Mayor, Aldermen, and Commonalty, of the said city, that they and their successors and assigns, shall and may at any time or times hereafter, when it to them shall seem fit and convenient, take in, fill, and make up, and lay out, all and singular the lands and ground in and about the said city and Island Manhattan's, and the same to build upon, or make use of, in any other manner or way, as to them shall seem fit, as far into the rivers thereof, and that encompass the same, at low water mark aforesaid. O.

To lay out their ground and build.

15. *And I do*, by these presents, for and on the behalf of his most sacred majesty aforesaid, his heirs, and successors, give and grant unto the aforesaid, Mayor, Aldermen, and Commonalty, of the said city of New-York, and their successors, that they and their successors shall and may have, hold, and keep, within the said city, and liberties, and precincts thereof, in every week in every year forever, upon Tuesday, one Court of Common Pleas, for all actions of debt, trespass, trespass upon the case, detinue, ejectment, and other personal actions; and the same to be held before the Mayor, Recorder, and Aldermen, or any three of them, whereof the Mayor or Recorder to be one, who shall have power to hear and determine the

To hold Courts of Common Pleas.

N. Note XIII.
O. Note XIV.

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same pleas and actions, according to the rules of the common law, and acts of general assembly of the said province. P.

16. *And I do*, by these presents, for and on behalf of his most sacred majesty aforesaid, his heirs, and successors, grant to the said Mayor, Aldermen, and Commonalty, of the said city of New-York, and their successors, that the said Mayor, Aldermen, and Commonalty, of the said city,, and their successors, shall have and enjoy all the privileges, franchises, and powers, that they have and use, or that any of their predecessors at any time within the space of twenty years last past, had, took, or enjoyed, or ought have had, by reason, or under any pretence of any former charter, grant, prescription, or any other right, custom, or usage, although the same have been forfeited, lost, or have been ill used, or not used, or abused, or discontinued, albeit they be not particularly mentioned; and that no officer shall disturb them therein under any pretence whatsoever, not only for their future, but their present enjoyment thereof; provided always, that the said privileges, franchises, and powers, be not inconsistent with, or repugnant to the laws of his majesty's kingdom of England, or other the laws of the General Assembly of this province as aforesaid. And saving to his most sacred majesty aforesaid, his heirs, successors, and assigns, and the Lieutenants, Governors, and Commanders-in-Chief, and other officers under him and them, in Fort James, in or by the city of New-York, and in all the liberties, boundaries, extents, privileges thereof, for the maintenance of the said fort and garrison there, all the right, use, title, and authority, which they or any of them, have had, used, or exercised there; and, also, one mes-

Grant to the Corporation of all their former franchises.

P. Note XV.

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suage or tenement, next the City Hall; and one messuage by the Fort, now in the possession of Thomas Coker, gent. The piece of ground by the gate, called the Governor's Garden, and the land without the gate, called the King's Farm; with the swamp next to the same land, by the fresh water; and saving the several rents and quit rents, reserved, due, and payable, from several persons, inhabiting within the said city, and Island Manhattan's, by virtue of former grants to them made and given, and saving to all other persons, bodies politic and corporate, their heirs, successors, and assigns, all such right, title, and claim, possessions, rents, services, commons, emoluments, interest in and to any thing which is their's (save only the franchises aforesaid) in as ample manner as if this charter had not been made. Q.

Quit rents reserved.

17. *And further*, I do appoint and declare, that the incorporation to be founded by this charter, shall not at any time hereafter do or suffer to be done, any thing by means whereof the lands, tenements, or hereditaments, stock, goods, or chattels thereof, or in the hands, custody, possession of, any of the citizens of the said city, such as have been sett, lett, given, granted, or collected, to, and for pious and charitable uses, shall be wasted or misemployed, contrary to the trust or intent of the founder or giver thereof, and that such and no other construction shall be made thereof, than that which may tend most to advantage religion, justice, and the public good; and to suppress all acts and contrivances to be invented, or put in use, contrary thereunto. R. *In witness* whereof, I have caused these presents to be entered in the Secretary's office, and the seal of the said province to be hereunto affixed, this seven and twen-

Grants to charitable uses saved.

Q. Note XVI.
R. Note XVII.

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tieth day of April, in the second year of the reign of his most sacred majesty aforesaid, and in the year of our Lord God, One Thousand Six Hundred and Eighty-six.

THOMAS DONGAN.

By virtue, or under pretext whereof, the said citizens and inhabitants from the date thereof, hitherto have held, or claimed to hold, and still do hold, or claim to hold and enjoy, all and singular the rights, privileges, franchises, pre-eminences, advantages, jurisdictions, courts, powers, profits, immunities, lands, tenements, hereditaments, and other the premises therein particularly mentioned and thereby intended to be granted. *And whereas* the citizens and inhabitants of the said city of New-York, besides the several public buildings, accommodations, conveniencies, and other things in the before recited grant or writing mentioned to have been by them erected, built, and appropriated, have, since the making thereof, built and appropriated, at their own proper costs and charges, several public buildings, accommodations, and conveniencies, for the said city, *that is to say*, the present city hall and gaols, rooms and places for the sitting of courts of justice, and chambers adjoining, with the ground and appurtenances thereunto belonging, five market-houses, the present crane and bridge, with the common sewer leading through the great dock, and a magazine or powder house near the fresh water, and several other public buildings, and conveniencies in the said city; and have built the new ferry houses on the island of Nassau, for the reception of travellers, with a barn, stables and pen, or pound for cattle. And whereas our late royal predecessor, Queen Anne, by her letters patent, under the broad seal of the province of New-York made, bearing date the nineteenth day of April, in the seventh year of her reign, did grant, ra-

Recital of several other buildings made by the City.

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Queen Anne's charter 1708.

tify, and confirm, unto the then Mayor, Aldermen, and Commonalty of the city of New-York, and to their successors and assigns, in these words following, *to wit*, Anne, by the grace of God, of England, Scotland, France, and Ireland, queen, defender of the faith, &c. To all whom these presents may in any wise concern, sendeth greeting: *Whereas* the Mayor, Aldermen, and Commonalty of the city of New-York, by their petition to our right trusty and well beloved cousin Edward Viscount Cornburry, our Captain General and Governor in Chief, in and over our province of New-York, and territories depending thereon in America, and Vice Admiral of the same, &c. preferred in Council; therein setting forth, That they having a right and interest, under divers ancient Charters and Grants, by divers former Governors and Commanders in Chief of our said Province of New-York, under our noble progenitors, in a certain ferry from the said city of New-York, over the East River to Nassau Island, (alias Long-Island) and from the said Island to the said city again, and have possessed the same, and received all the profits, benefits, and advantages thereof, for the space of fifty years and upwards; and perceiving the profits, advantages, and benefits usually issuing out of the same to diminish, decrease, and fall short of what might be reasonably made of the same, for the want of the bounds and limits, to be extended and enlarged on the said island side, whereby to prevent divers persons transporting themselves and goods to and from the said Island Nassau (alias Long Island) over the said river, without coming or landing at the usual and accustomed places, where the ferry boats are usually kept and appointed, to the great loss and damage of the said city of New-York; have humbly prayed our grant and confirmation, under the great seal of our said Province of New-York, of the said ferry, called the Old Ferry,

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on both sides of the said East River, for the transporting of passengers, goods, horses and cattle, to and from the said city, as the same is now held and enjoyed by the said Mayor, Aldermen, and Commonalty of the said city of New-York, or their under-tenant, or under-tenants; and also, of all that the vacant and unappropriated land, from high-water-mark, to low-water-mark, on the said Nassau Island (alias Long Island) lying contiguous and fronting the said city of New York, from a certain place called, The Wall-About, unto the Red-Hook, over against Nutten-Island, for the better improvement and accommodation of the said ferry; with full power, leave, and license to set up, establish, maintain, and keep one or more ferry or ferries, for the ease and accommodation of all passengers and travellers, for the transportation of themselves, goods, horses, and cattle, over the said river, within the bounds aforesaid, as they shall see meet and convenient, and occasion require; and to establish, ordain, and make bye-laws, orders, and ordinances, for the due and orderly regulation of the same: The which Petition we being minded to grant. *Know ye*, That of our especial grace, certain knowledge, and meer motion, we have given, granted, ratified, and confirmed, and in and by these presents, for us, our heirs, and successors, we do give, grant, ratify, and confirm, unto the said Mayor, Aldermen, and Commonalty of the city of New-York, and to their successors and assigns, All that the said ferry, called the Old Ferry, on both sides of the said East River, for the transportation of passengers, goods, horses, and cattle, over the said river, to and from the said city and island, as the same is now used, held, and enjoyed, by the said Mayor, Aldermen, and Commonalty of the city of New-York, or their under tenant or under tenants, with all and singular the usual and accustomed ferriage, fees, perquisites, rents, issues, profits, and

Grant to the Corporation of Brooklyn Ferry.

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other benefits and advantages whatsoever, to the said Old Ferry belonging or therewith used, or thereout arising; and also, all that the aforesaid vacant and unappropriated ground, lying and being on the said Nassau Island, (alias Long Island) from high water mark to low water mark aforesaid, contiguous and fronting the said city of New-York, from the aforesaid place called the Wall-About, to Red-Hook aforesaid, *That is to say*, from the east side of the Wall-About, opposite the now dwelling house of James Bobine, to the west side of the Red-Hook, commonly called the Fishing Place, with all and singular the appurtenances and hereditaments to the same, or any part or parcel thereof belonging, or in any wise of right appertaining; together with all and singular the rents, issues, profits, ways, waters, easements, and all other benefits, profits, advantages and appurtenances, which heretofore have, now are, and which hereafter shall belong to the said ferry, vacant land, and premises, hereinbefore granted and confirmed, or to any or either of them in any wise appertaining, or which heretofore have been, now are, and which hereafter shall belong, be used, held, received, and enjoyed; and all our estate, right, title, and interest, benefit and advantage, claim and demand of, in, or to, the said ferry, vacant land, and premises, or any part or parcel thereof, and the reversion and reversions, remainder and remainders; together with the yearly and other rents, revenues, and profits, of the premises, and of every part and parcel thereof; except and always reserved out of this our present grant and confirmation, free liberty, leave, and license, to and for all and every person or persons, inhabiting or having plantations near the said river, by the water side, within the limits and bounds above mentioned, to transport themselves, goods, horses, and cattle over the said river, to and from the said city of New-York, and Nassau Island, (alias Long

And of all vacant land on Nassau Isl and, between high and low watermark from the Wall About to Red Hook.

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Island) to and from their respective dwellings or plantations, without any ferriage or other account to the said ferry, hereby granted and confirmed to be paid or given; so always as the said person or persons do transport themselves only, and their own goods, and in their own boats only, and nor any stranger or their goods, horses, or cattle, or in any other boat: *To have and to hold*, All and singular the said ferry, vacant land, and premises, herein before granted and confirmed, or meant, mentioned, or intended to be hereby granted and confirmed (except as is hereinbefore excepted) and all and singular the rents, issues, profits, rights, members, and appurtenances, to the same belonging, or in any wise of right appertaining unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors, and assigns forever; to the only proper use and behoof of the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors and assigns forever; to be holden of us, our heirs and successors, in free and common soccage, as of our manor of East Greenwich, in the county of Kent, within our kingdom of England; yielding, rendering and paying unto us, our heirs and successors for the same, yearly, at our custom house of New-York, to our collector and receiver general there for the time being, at or upon the feast of the nativity of St. John the Baptist, the yearly rent or sum of five shillings, current money of New-York.

And we do further, of our especial grace, certain knowledge, and meer motion, for us, our heirs and successors, give and grant unto the said Mayor Aldermen, and Commonalty, and their successors, full and free leave and license to set up, establish, keep, and maintain one or more ferry or ferries, as they shall from time to time think fit and convenient, within the limits and bounds aforesaid, for the ease and accommodation

Grant of power to establish as many Ferries as they shall think fit.

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of transporting of passengers, goods, horses, and cattle, between the said city of New-York, and the said island (except as is herein before excepted) under such reasonable rates and payments as have been usually paid and received for the same; or which at any time hereafter, shall be by them established by and with the consent and approbation of our Governor and Council of our said province, for the time being. *And we do further*, of our especial grace, certain knowledge, and meer motion, give and grant unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors, full and absolute power and authority, to make, ordain, establish, constitute, and confirm, all manner of bye-laws, orders, rules, ordinances, and directions for the more orderly keeping, and regularly maintaining the aforesaid ferry that now is kept, or any ferry or ferries which shall at any time or times hereafter, be set up, established, or kept within the bounds aforesaid, by virtue hereof, or of, for, touching, or concerning, the same (so always as the same be not contrary to our laws of England, and of our Province of New-York) and the same at all times hereafter to put in execution, or abrogate, revoke or change, as they in their good discretion shall think fit, and most convenient, for the due and orderly keeping, regulating, and governing the said ferry or ferries hereinbefore mentioned.

And lastly, our will and pleasure is, and we do hereby declare and grant, that these our letters patent, or the record thereof, in the secretary's office of our said province of New-York, shall be good and effectual in the law, to all intents and purposes whatsoever, notwithstanding the not true and well reciting or mentioning of the premises, or any part thereof, or the limits and bounds thereof, or of any former or other letters patents, or grants whatsoever, made or granted; or of any part thereof, by us or any of our progenitors, unto

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any person or persons whatsoever, bodies politic, or corporate, or any law or other restraint, incertainty, or imperfection whatsoever, to the contrary in any wise notwithstanding, and although express mention of the true yearly value, or certainty, of the premises, or of any them, or of any other gifts or grants by us or by any of our progenitors, heretofore made to the said Mayor, Aldermen, and Commonalty, of New-York, in these prsents, is not made, or any other matter, cause, or thing, whatsoever, to the contrary thereof in any wise notwithstanding. *In testimony* whereof, we have caused these our letters to be made patent, and the seal of our said province of New-York, to our said letters patent to be affixed, and the same to be recorded, in the secretary's office of our said province. *Witness* our right trusty and well beloved cousin, Edward Viscount Cornbury, Captain General, and Governor in Chief, in and over our province of New-York aforesaid, and territories thereon depending in America, and Vice Admiral of the same &c. in Council, at our fort in New-York, the nineteenth day of April, in the seventh year of our reign. *Annoq; Domini*, One thousand Seven Hundred and Eight. S.

By virtue, or under pretext whereof, the said inhabitants and citizens of the city of New-York, have held and enjoyed, or have claimed to hold and enjoy, and still do hold, or claim to hold, the ferry, vacant land, perquisites, profits, privileges, powers, and other the premises, in the before recited letters patent mentioned and intended to be thereby granted. *And whereas*, besides all the aforesaid particulars in the said grant or instrument made, in the aforesaid year of our Lord One Thousand Six Hundred Eighty and Six, and in the before recited letters patent of Queen Anne, mentioned or intended to be thereby granted, the citizens and inhabitants of the said city of New-York, have

Recitals to the present charter of 1730.

S. Note XVIII.

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anciently held, or claimed to hold, use, and enjoy, divers and sundry other rights, privileges, franchises, pre-eminences, advantages, jurisdictions, emoluments, powers, profits, immunities, lands, tenements, and other hereditaments, as well by prescription, as by divers grants, and confirmations of and from divers Governors, Lieutenant Governors, and Commanders in Chief, of the said province, by the name of *Mayor, Aldermen and Commonalty of the City of* New-York, and by divers other names, stiles, and titles, and otherwise.

And whereas, divers questions, doubts, opinions, ambiguities, controversies, and debates have arisen and been made as well upon and concerning the validity and force of the said recited grant or writing, dated in the year of our Lord, one thousand six hundred and eighty-six, and the before recited letters patent of Queen Anne, as upon all and every the other grants and confirmations of divers governors, lieutenant-governors, and commanders in chief, made to our city of New-York, as aforesaid, by reason of the variety of names, stiles, titles, and incorporations aforesaid, and by reason that the before recited grant or instrument, dated in the year of our Lord one thousand six hundred and eighty-six, and the other grants and confirmations of divers governors, lieutenant governors and commanders in chief, were made in the governors' own names respectively, when they should have been made in the respective names, stiles and titles of former kings and queens, our royal predecessors, under whom they were governors, lieutenant governors or commanders in chief respectively, and by reason, as some suggest and say, that the said city, or inhabitants or citizens thereof, never were well, regularly, or legally incorporated, and and for want thereof, none of all the said grants, confirmations instruments, or letters patent, hereinbefore mentioned, could take effect or operate; and for divers

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other defects in all, some or one of the aforesaid grants, confirmations and writings; and also upon the validity and force of the prescription aforesaid. *And whereas*, our well beloved subjects, the Mayor, Aldermen, and Commonalty of our said city of New-York, by their humble petition presented to our trusty and well beloved John Montgomerie, Esq. our captain-general, and governor in chief of our provinces of New-York and New-Jersey, and territories depending thereon in America, and vice admiral of the same, &c. in council, reciting among other things, that the city of New-York is an ancient city, and the citizens thereof have anciently held and used, and still do hold and use divers and sundry rights, liberties, privileges, franchises, free customs, pre-eminences, advantages, jurisdictions, emoluments, immunities, lands, tenements, public buildings, and hereditaments, as well by the name of *the Mayor, Aldermen, and Commonalty, of the City of* New-York, as otherwise, to the advancement of the said city in its number of buildings and inhabitants, whereby the said city is become a considerable seaport, and exceedingly necessary and useful to our kingdom of Great Britain, in supplying our governments in the West Indies with bread, flour, and other provisions; wherefore they prayed, among other things, for our confirmation and grant to the said city, and corporation, by the name, stile, and title, of *The Mayor, Aldermen, and Commonalty of the City of* New-York, of all their lands, tenements, public buildings, and hereditaments, wharves, docks, bridges, slips, ferries, cranes, grants, charters, rights, liberties, privileges, franchises, free customs, pre-eminences, advantages, jurisdictions, emoluments, and immunities, now and heretofore by them held and enjoyed; and that they might have the soil four hundred foot beyond low water mark, on Hudson's river, from a certain creek or kill called Bestaver's Killitie, southard

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to the fort, and from thence, the same number of feet beyond low water-mark, round the fort, and along the East River, as far as to the north side of a certain hill called Corlaer's Hook; and also for a grant of such other powers, liberties, franchises, rights, free customs, jurisdictions, privileges, immunities, and things, as may be needful for the good rule and government of the said city. *And we*, considering that the strength and increase of our good subjects, in that our frontier province of New-York, does, in a great measure, depend upon the welfare and prosperity of our said city, wherein the trade and navigation thereof are chiefly and principally carried on, promoted, and encouraged; and we affecting the good and happy estate of our said city, and the steady loyalty and integrity of the inhabitants and citizens thereof, are very desirous and willing to give encouragement to the said city, inhabitants, and citizens, and to remove, utterly abolish, and wholly take away all and all manner of causes, occasions, and matters, whereupon such questions, doubts, opinions, ambiguities, controversies, or debates, as aforesaid, or any other questions or doubts may or can arise; and in order thereunto, we have thought fit, them, the said inhabitants and citizens of the said city of New-York, (by whatsoever name or names they have been or were incorporated, or whether they have been or were heretofore incorporated or not) into one body politic and corporate, by the name of *The Mayor, Aldermen, and Commonalty of the City of* New-York, by our letters, to make, constitute, confirm, renew, and of new to create. *And we* being also further willing and fully intending and desiring, that the said inhabitants and citizens of our said city, by the name aforesaid, should have perpetual succession, and should hold, possess, and enjoy, all and singular, the rights, privileges, liberties, franchises, pre-eminences, advantages, jurisdic-

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tions, courts, powers, offices, authorities, ferries, fees, fines, perquisites, profits, immunities, rents, possessions, lands, tenements, and other hereditaments, not only which in the before recited grants, confirmations, writings, and letters patent, are mentioned, or intended to be thereby granted, but also, which they have held, or claimed to hold, by prescription or otherwise, with the alterations and enlargements thereof, and additions thereto, in such manner and form as hereinafter is mentioned and contained, notwithstanding the before mentioned, or any other question, doubts, opinions, ambiguities, debates, faults, or imperfections.

Charter of 1730.

1. *Wherefore know ye*, That we of our especial grace, certain knowledge, and meer motion, have willed, ordained, constituted, confirmed, given, and granted, and by these presents, for us, our heirs, and successors do will, ordain, constitute, confirm, give and grant, that our said city of New-York, be, and from henceforth forever hereafter shall be and remain a free city of itself; and that the Mayor, Aldermen, and Commonalty of the said city, and their successors, from henceforth and forever hereafter, shall be and remain one body corporate and politic, *in re facto, and nomine*, by the name of, *The Mayor, Aldermen, and Commonalty of the city of* New-York, and them and their successors by the name of, *The Mayor, Aldermen and Commonalty of the City of* New-York, one body corporate, *in re facto, and nomine*, really and fully, we do for us, our heirs and successors, erect, make, ordain, constitute, confirm, declare, and create, by these presents, and that, by that name, they shall and may have perpetual succession; and also, that they and their successors, by the said name of, *The Mayor, Aldermen, and Commonalty of the City of* New-York, be, and forever hereafter shall be, persons able in law, and capable to sue and be sued, implead and be impleaded, answer and

Corporation created by the name of, The Mayor, Aldermen, and Commonalty of the city of N. York.

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be answered unto, defend and be defended, in all courts and places before us, our heirs, and successors, and before all and any the judges, justices, officers, and ministers of us, our heirs and successors, and elsewhere in all and all manner of actions, suits, complaints, pleas, causes, matters, and demands, whatsoever, and of what kind or nature soever, in as full and ample manner and form, as any of our other liege subjects of our said Province, being persons able and capable in law, can or may sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended, by any lawful ways and means whatsoever. *And also*, That they and their successors, by the same name of, *The Mayor, Aldermen, and Commonalty of the city of* New-York, be and shall be, forever hereafter, persons capable and able in law, to purchase, take, hold, receive, enjoy, and have, any messuages, houses, buildings, lands, tenements, rents, possessions and other hereditaments, and real estate, within or without our said Province, in fee and forever, or, for time of life, or lives or years, or in any other manner; and also goods, chattels, and all other things, of what kind or quality soever. *And also*, That they and their successors by the same name of, *The Mayor, Aldermen, and Commonalty of the city of* New-York, shall and may give, grant, demise, assign, and sell, or otherwise dispose of all or any the messuages, houses, buildings, lands, tenements, rents, possessions, and other hereditaments, and real estate, and all their goods, chattels, and other things aforesaid, as to them shall seem meet, at their own will and pleasure.

And also, That the said Mayor, Aldermen, and Commonalty of the city of *New-York*, for the time being, and their successors, shall and may forever hereafter, have and use a common seal for sealing all and singular, deeds, grants, conveyances, contracts, bonds,

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articles of agreements, assignments, powers, authorities, and all and singular their affairs and things, touching or concerning the said corporation: And, by virtue of these our letters, it shall and may be lawful to and for the said Mayor, Aldermen, and Commonalty of the city of *New-York*, and their successors, as they shall see cause, to break, change, and new-make the same, or any other common seal, when, and as often as to them it shall seem convenient. T.

2. *And we do further*, of our especial grace, certain knowledge, and meer motion, for us, our heirs and successors, give, grant, order, and appoint, that the said city of *New-York*, and the compass, precincts, circuit, bounds, liberties, and jurisdictions, of the same, do reach, extend, and stretch forth, and shall and may reach, extend, and stretch forth, as well in length as in breadth and circuit, in and through the limits and boundaries following, *to wit:* To begin at the river, creek, or run of water, called *Spyt den Duyvel*, over which King's Bridge is built, where the said river or creek empties itself into the North River, on Westchester side thereof, at low water mark, and so to run along the said river, creek, or run, on Westchester side, at low water mark, unto the East River, or Sound, and from thence to cross over to Nassau-Island, to low water mark there, including Great Barn Island, Little Barn Island, and Manning's Island, and from thence all along Nassau Island shore at low water mark, unto the south side of the Red-Hook; and from thence to run a line across the North River, so as to include Nutten Island, Bedlow's Island, Bucking Island, and the Oyster Island, to low water mark on the west side of the North River, or so far as the limits of our said province extended there, and so to run up along the west side of the said river,

Extent of the city.

T. Note XIX.

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at low water mark, or along the limits of our said province, until it comes directly opposite to the first mentioned river or creek, and thence to the place where the said boundaries first began. And also, that the said city, within the limits and jurisdictions thereof as aforesaid, be, and forever hereafter shall be, and remain divided into seven wards,* to wit: the West Ward, the South Ward, the Dock Ward, the East Ward, the North Ward, Montgomerie Ward, and the Out Ward; each and every of which wards, shall contain and comprehend, and reach and extend through the several limits and bounds following, to wit:

City divided into wards.

The West Ward to begin at the middle of the east end of the street that goes from the Parade to the North River, between the lot of ground now in fence, belonging to Charles Sleigh, and the house and ground late of Thomas Elde; and from thence to run a direct line over the middle of the west end of Beaver-street, and so along to the middle of Beaver-street, till it comes directly opposite to the middle of the south end of New-street, and to run all along the middle of New-street, to the north end thereof; and from thence to run to the rear of the dwelling-house, now in the possession of Domine Du Bois, and from thence to run all along the rear of the houses that front the Broad Way, up to the north part of the rear of Spring Garden House; and from thence, to run up a line, as the Broadway runs, to the end thereof, including the said Broadway; and John Harris, his house, and to include all other houses, hereafter to be built fronting the said Broadway, and from the north end of the Broad Way to continue and run a line, as the said street runs, until it comes directly opposite to Bestaver's Killitie, or rivulet, and from thence

West Ward.

* The number of wards has been since increased to fifteen, and the boundaries altered by Acts of the Legislature. See note XX.

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to run to the said Bestaver's Killitie, and so to continue the said line four hundred foot, beyond low water mark into the North River, and so down the said North River, always keeping four hundred foot beyond low water-mark, until it comes directly opposite to the middle of the west end of the first-mentioned street; and so to run to and through the middle of the said street, to the place where the said West Ward first began.

The South Ward, to begin at the middle of Wall-street, where the line of the West Ward runs across the same, and from thence down the middle of Wall-street, South Ward. until it comes directly opposite to the middle of the north end of Broad-street; and from thence down the middle of Broad-street to the long bridge; and from thence to the eastward of, and to include the said long bridge, and the market house at the south end of the said street; and from thence to continue and run a south-east line, across the East River to low water mark, on Nassau Island shore; and from thence to run along the said shore at low water mark, to the south side of Red Hook, and from thence to run a line across the North River, so as to include Nutten Island, Bedlow's Island, Bucking Island, and the Oyster Island, to low water mark, on the west side of the North River; and so to run up along the west side of the said river, at low water mark, until it comes directly opposite to Bestaver's Killitie, or rivulet; and from thence to run to the north-westerly corner of the West Ward, at four hundred foot beyond low water mark; and from thence along the bounds of the said West Ward, till it comes to the south-westerly end thereof; and from thence, still along the bounds of the West Ward, through the street by the parade, and through Beaver street, and New-street, to the place where the said South Ward began.

The Dock Ward to begin at the middle of Wall-street,

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directly opposite to the middle of the north end of Broad street, and from thence down through the middle of Wall-street until it comes to the middle of Smith-street to a place called Marten Clock's Corner, including the small street between the house late of the said Marten Clock and the Slip, and so to continue and run a line as the said small street runs, into the East River, four hundred foot below low water mark, thence running westerly, keeping four hundred foot below low water mark, till it comes to the bounds of the South Ward, and from thence along the bounds of the South Ward, up the middle of Broad-street, to the place where the said Dock Ward began.

Dock Ward.

The East Ward to begin at the north-easterly corner of the Dock Ward, in the middle of Smith-street, and so run from thence up through the middle of the said street, till it comes directly opposite to the middle of the north-easterly end of Golden Hill-street; and from thence to run down through the middle of the said street to the middle of the south-easterly end thereof; and from thence to run through the middle of Rodman's Slip to the East River; and from thence to continue and run a line as the said slip runs, into the East River, four hundred foot below low water mark; thence running westerly, keeping four hundred foot below low water mark, till it comes to the south-easterly end of the Dock Ward; and so along the bounds of the Dock Ward, up through the middle of Smith-street, to the place where the East Ward began.

East Ward

The North Ward, to begin where the East Ward begins, in the middle of Smith-street, and so to run from thence through the middle of the said street so far as it runs, and so to continue a line, from the end of the said street, as the street runs, to the south side of the creek that runs from fresh water into the East

North Ward.

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River; and from thence running a north course till it comes to the bounds of the West Ward; and from thence running along the bounds of the said West Ward, towards Spring Garden, and all along the rear of the houses fronting the Broad Way, and so still along the bounds of the said West Ward, to the middle of Wall-street, where the West Ward runs across the same; and from thence down the middle of Wall-street along the bounds of the South Ward, and the Dock Ward, to the place where the said North Ward began, including in the same ward, the Powder-House, the City Hall, and the Presbyterian Meeting House.

Montgomerie Ward to begin at the south-easterly corner of the East Ward, opposite to Rodman's Slip, four hundred foot below low water mark, in the East River, and from thence to run along the bounds of the East Ward, to and through the middle of Rodman's Slip, and all through the middle of Golden Hill-street, till it meets with the boundaries of the North Ward and the middle of Smith-street, and so along the bounds of the North Ward, through the middle of Smith-street to the rivulet that runs from fresh water into the East River; from thence along the said rivulet so far as it goes, till it empties itself in the said East River; and from thence to run a south-east line, four hundred foot beyond low water mark, into the said East River, and from thence running westerly, keeping four hundred foot beyond low water mark, to the place where the said Montgomerie Ward began. Montgomerie Ward

The Out Ward to begin at the north-westerly corner of the South Ward, at low water mark, on the west side of the North River, over against Bestaver's Killitie or rivulet, and from thence to run up along the west side of the said river, at low water mark, until it comes directly opposite to the river, creek, or run of water, Out Ward

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called *Spyt den Duyvel*, over which King's Bridge is built; and from thence to run to the said creek, or river to the Westchester side thereof, at low water mark, into the East River, or Sound, and from thence to cross over to Nassau Island, to low water mark there, including Great Barn Island, Little Barn Island, and Manning's Island, and from thence along Nassau Island shore, at low water mark, to the bounds of the South Ward; and from thence along the bounds of the South Ward, the Dock Ward, the East Ward, and Montgomerie Ward, to the place where the said Montgomerie Ward and the North Ward meet, at the rivulet that runs from fresh water, and so to run a north course as the said North Ward runs, till it comes to the bounds of the West Ward; and from thence along the bounds of the West Ward to the north-westerly corner thereof, at four hundred foot beyond low water mark, near Bestaver's Killitie, or rivulet; and from thence along the bounds of the South Ward to the place where the said Out Ward began. U.

3. *And we do further*, of our special grace, certain knowledge, and meer motion, for us, our heirs, and successors, will, ordain, give, and grant, that there be, and forever hereafter shall and may be one *Mayor*, one Recorder, seven Aldermen, seven Assistants, one Sheriff, one Coroner, one Common Clerk, one Chamberlain, one High Constable, sixteen Assessors, seven Collectors, sixteen Constables, and one Marshal, appointed, nominated, elected, chosen, and sworn, in and for the said city of *New-York*, and the precincts, and limits thereof; out of the freeholders or freemen, inhabitants of the said city, in manner and form as hereinafter is particularly mentioned: And for the better execution of our will, gift, and grant in this behalf, we have as-

Corporate Officers.

U. Note XX.

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signed, named, constituted, and made, and by these presents, for us, our heirs and successors, do assign, name, constitute, and make, our well beloved *Robert Lurthing*, esq. to be the present Mayor, of the same city, to do and execute all things, which unto the office of Mayor of the said city, doth or may belong, or in any wise appertain. *And we do moreover*, for us, our heirs, and successors, give, grant, ratify, and confirm, unto the said Mayor of our said city of *New-York*, and to his successors, and to the Mayor of the said city, for the time being, and to each of them, forever, full power and authority to depute and appoint one of the Aldermen of the said city, for the time being, to be approved of by the Governor, or Commander-in-Chief of the said province, for the time being, in the place of the Mayor of the said city, for the time being; and as his deputy, in all matters and respects, to act and do all things, which to the office of the Mayor of the said city, within the limits, liberties, and precincts thereof, do, or ought to belong during the sickness, or in the absence of the said Mayor, for the time being. X.

4. *And we do hereby Will and Grant*, That every such deputy or person so to be appointed and approved of, after having taken such oath, as hereinafter is directed, for every such deputy to take, shall have as full power and authority to act and do, in the sickness or absence of the Mayor of the said city, for the time being, all and singular, those things which to the office of Mayor of the said city belongs, or shall belong, or appertain, to all intents and purposes, as the Mayor of the said city, for the time being, by virtue of these presents, or otherwise, hath, shall, or ought to have. *And we do further*, for us, our heirs, and successors, will, ordain, and grant, that, in case it should happen that

Deputy Mayor.

X. Note XXI.

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the present Mayor of the said city, or any of his successors, or any of the Mayors of the said city, for the time being, should happen to die before any other fit person shall be appointed and sworn Mayor of the said city, in their respective rooms and places, then, and in every such case, upon the death of such Mayor, such Alderman for the time being (who shall have been so appointed and approved of, as aforesaid, to act in the place of, or as deputy to, such Mayor) shall be, and he is hereby appointed and declared Mayor of the said city, and to continue and be continued in, and to execute the same office of Mayor of the said city, from the death of such Mayor so dying, until another fit person shall be appointed and sworn Mayor of the said city, in such manner as in and by these presents is hereafter directed for the respective Mayors of the said city, to be appointed and sworn, and so as often as such case shall happen. Y.

5. *And further we have assigned*, ordained, named, and constituted, and by these presents do, for us, our heirs, and successors, assign, ordain, name, and constitute, our trusty and well beloved *Francis Harrison*, Esq. (one of our Council of our said province of *New-York*) to be the present Recorder of our said city, to do and execute all things, which unto the office of Recorder of the said city doth or may belong, or in any manner appertain, and to continue, and be continued in, and to execute the said office, until another fit person shall be appointed and sworn in the office. *AND* We do hereby appoint, That the Governor or Commander-in-Chief for the said province, for the time being, at any time or times, when, and as often as they or each of them think fit, may displace and remove the present Recorder, or any other Recorder, hereafter to be appointed. Z.

Recorder.

Y. Note XXII.
Z. Note XXIII.

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6. *And we do*, for us, our heirs, and successors, assign, name, constitute, and appoint, John Cruger, Harmanus Van Gelder, Frederick Phillipse, Gerardus Stuyvansant, Anthony Rutgers, John Rosevelt, and Johannes Hardenbrook, Esqrs., citizens and inhabitants of the said city of *New-York*, to be the present Aldermen of the said city; and Egbert Van Borssom, Samuel Kip, John Chambers, John Moore, Isaac De Peyster, Petrus Rutgers, and Gerardus Beekman, gents. to be the present Assistants of the said city, to wit: The said John Cruger, to be Alderman, and John Moore, to be Assistant, for the Dock Ward of the said city; Harmanus Van Gelder, to be Alderman, and John Chambers, to be Assistant, for the West Ward of the said city; Col. Frederick Phillipse, to be Alderman, and Isaac De Peyster, to be Assistant, for the South Ward of the said city; Gerardus Stuyvesant, to be Alderman, and Samuel Kip, to be Assistant, for the Out Ward of the said city; Anthony Rutgers, Esq. to be Alderman, and Egbert Van Borssom, to be Assistant, for the North Ward of the said city; John Rosevelt, to be Alderman, and Petrus Rutgers, to be Assistant, for the East Ward of the said city; Johannes Hardenbrook, to be Alderman, and Gerardus Beekman, to be Assistant, for Montgomery Ward of the said city. Aldermen. Assistants.

7. *And we do*, also, hereby nominate and appoint Cornelius De Peyster, to be the present Chamberlain and Treasurer of the city aforesaid; Colonel Henry Beekman to be the present Sheriff of the said city; Richard Nichols, gent. to be the present Coroner of the said city; Edmund Peers, to be the present High Constable, and Robert Crannel, to be present Marshal of the said city. Chamberlain, Sheriff, coroner high constable and marshal.

8. *And, also*, We do hereby nominate and appoint John Le Montes, David Abeel, Assessors, Nicholas Van Taerling, Collector, and John Scott, Constable, for the Assessors, collectors, and constables.

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South Ward of the said city; John Thurman, and John Bogart, Assessors, and John Pearse, Collector for the West Ward of the said city; Gerardus Duyckinck, and Simeon Soumain, Assessors, George Brinckerhoof, Collector, and Christopher Nicholson, Constable, of the Dock Ward of the said city; John Brown and Nathaniel Marston, Assessors, Peter Noxen, Collector, and Timothy Bontecou, Constable, of the North Ward of the said city; John Pintard and Peter Van Dyck, Assessors, Ebenezer Grant, Collector, and John Abrahamson, Constable, of the East Ward of the said city; Jacobus Kip, Assessor, and Cornelius Cousine, Collector, for the Bowery Division of the Out Ward; and Barent Waldren, Assessor, Derick Bensing, Collector, and Arent Bussing, Constable, for the Harlem Division of the said Out Ward.

Collectors assessors, and constables, to be chosen.

9. *And we do*, hereby appoint, order, and direct, that within forty days after the date hereof, the freemen of the said city being inhabitants in, and the freeholders of each respective ward in the said city, may and shall assemble themselves and meet together, at such time and place, in each of the said wards, as each respective Alderman, for each respective ward, shall appoint, and then and there, by plurality of their voices or votes, to elect and choose out of the inhabitants of each respective ward, being freeholders there, or freemen of the said city, the several officers following, to wit, one other Constable for the South Ward; one other Constable for the West Ward; one other Constable for the Dock Ward; one other Constable for the East Ward; two Assessors, one Collector, and two Constables for Montgomerie Ward; and two other Assessors, and three other Constables, for the Out Ward, to wit: one other Assessor, and two Constables, for the Bowery Division, and one other Assessor, and one other Constable, for the Harlem Division of the said Out Ward. *And we*

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do, hereby will and ordain, that each and every of the before named Mayor, Aldermen, Assistants, Chamberlain, Coroner, High Constable, and Marshal, and all and every the before named Assessors, Constables, and every other Assessor and Constable, hereafter to be chosen for any ward, or division of a ward, in the said city, before next *Michaelmas* day on their being respectively sworn into their respective offices, as hereafter is directed, shall continue in their said respective offices, until the fourteenth day of October, next, ensuing the date hereof, and from thence until other fit persons be respectively chosen and sworn in their respective rooms and places in manner and form, as is hereinafter directed. *And* we do also further ordain, order, and declare, for us, our heirs, and successors, that as well, the before named Sheriff, as every other person and persons hereafter to be appointed for or to the office of Sheriff of the said city, before he or they be permitted to exercise the said office, shall each of them give and enter into bond, to us, our heirs, and successors, with two or more sufficient sureties, in a penalty not less than one thousand pounds, conditioned for the faithful and due execution of his said office, in such manner as the Governor or Commander-in-Chief of the said province of New-York, for the time being, shall think fit and appoint: And the before named Sheriff on his giving such security, and having taken such an oath as hereafter is directed, shall continue in his said office, until the fourteenth day of October, next ensuing, and from thence until another fit person is appointed and sworn into the said office, and has given such security as aforesaid. A.A.

Sheriff to enter into bond for the due execution of his office.

10. *And we do hereby further*, for us, our heirs, and successors, appoint, and ordain, that the Governor, or Commander-in-Chief of the said province of New-

Mayor, sheriff and coroner appointed yearly.

A.A. Note XXIV.

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York, for the time being, by and with the advice of the council of us, our heirs, and successors, for the said province, for the time being, from time to time, shall have full power and authority, on the feast day of *St. Michael*, the Arch-Angel, in every year, forever hereafter, to name and appoint, and can, shall and may name and appoint, a discreet and fit person of the freeholders, freemen, or inhabitants of the said city, to be Mayor of the said city; and one other fit and able person, one of the freeholders or freemen, being an inhabitant of the said city, to be sheriff of the said city; and one other such person, to be Coroner of the said city, all for the ensuing year. *And also*, that on the said feast day of *St. Michael*, the Arch-Angel, in every year, forever hereafter, the freemen of the said city, being inhabitants, and the freeholders of each respective ward in the said city, shall and may assemble themselves and meet together, at such time of the day, and such public place in each of the said wards, as each respective Alderman, for each respective ward, for the time being, shall appoint; and then and there, by plurality of their voices or votes, to elect and choose out of the inhabitants of each respective ward, being freeholders thereof, or freemen of the said city, (except the Out Ward) for the ensuing year, one Alderman, and one Assistant, two Assessors, one Collector, and two Constables; and for the said Out Ward, four Assessors, two Collectors, and four Constables, to wit: two Assessors, one Collector, and two Constables, for each division of the said ward. *And also*, That the Mayor of the said city, for the time being, and four or more Aldermen, and four or more of the Assistants of the said city, for the time being, on the feast day of *St. Michael* the Arch-Angel, in every year forever hereafter, shall and may in common council, name and appoint one fit person, being a freeholder, or freeman, and an inhabitant of the said city, to be

Aldermen assistants, assessors, collectors, andconstables, chosen yearly.

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treasurer or chamberlain of the said city, for the year ensuing; and also that on the same day in every year, forever hereafter, the Mayor of the said city, for the time being, shall name and appoint one other of the said inhabitants, being a freeholder or freeman of the said city, to be High Constable of the said city, for the year ensuing; every of which persons, so to be named for Mayor, Coroner, High Constable, or Chamberlain, or so to be elected for Alderman, Assistant, Assessor, or Constable, on the feast day of *St. Michael*, shall on the fourteenth day of October then next ensuing their nomination, or election respectively, take the respective oaths hereinafter appointed for them respectively to take, in such manner and form as hereinafter is directed, and shall continue in their said respective offices, from their being so respectively sworn, until other fit persons be respectively named, or elected, and sworn in their respective rooms and places. *And also*, That every person so to be named for Sheriff, on the said feast day of *St. Michael*, shall on the fourteenth day of October, then next ensuing his nomination, take such oath as is hereafter appointed for each Sheriff to take, and shall give such security as is hereinbefore appointed for each Sheriff to give, and shall remain in the said office, from the time of his being so sworn and giving such security, until another fit person shall be appointed and sworn into the said office, and shall have given such security as aforesaid. *And we do further*, for us, our heirs and successors, appoint and ordain, that if it should happen that either the Mayor, Sheriff, or Coroner, of the said city, for the time being, at any time (before other fit persons be so as aforesaid respectively named and sworn, in their respective rooms) should happen to die, then, and so often as it shall so happen, it shall and may be lawful for the Governor and Commander-in-Chief of the said province, for the

Chamberlain appointed yearly.

When to be sworn.

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time being, by and with the advice of the said council for the said province, for the time being, in some convenient time thereafter, to name and appoint some fit and discreet person, being an inhabitant, freeholder, or freeman of the said city, to be Mayor of the said city in the room of such Mayor so dying; and one other fit and able person, as aforesaid, to be Sheriff of the said city, in the room of such Sheriff so dying; and one other fit person as aforesaid, to be Coroner of the said city, in the room of such Coroner so dying; and that every such person, so to be named Mayor, after having taken such oath, as is hereby appointed for each Mayor to take, shall remain in, and execute the said office of Mayor of the said city, until the fourteenth day of October then next ensuing, and until another fit person be named and sworn into the said office of Mayor of the said city; and every such person so to be named Sheriff, after having sworn and given such security, as is hereby appointed for each Sheriff to do, shall have, exercise, and remain in the said office of Sheriff of the said city, until the fourteenth day of October, then next, and until another fit person be named and sworn in the said office of Sheriff, and shall have given such security as hereinbefore is appointed for each Sheriff to give, and every person, so to be named Coroner, after having taken such oath as appointed hereby for each Coroner to take, shall exercise and remain in the said office of Coroner of the said city, until the fourteenth day of October, then next, and until another fit person be named and sworn into the office of Coroner of the said city. B.B.

Vacancies of Mayor, Sheriff and Coroner supplied.

11. *And we do moreover*, for us, our heirs, and successors, will, and by these presents grant to the said Mayor, Aldermen, and Commonalty of the city of New-

B.B. Note XV.

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York, and to their successors forever, that if it should happen any of the present named Aldermen, or Assistants, Assessors, Collectors, or Constables, or any one of the Aldermen, Assistants, Assessors, Collectors, or Constables, hereafter to be elected and sworn, or to be sworn in their respective offices as aforesaid, shall happen to die, or remove out of the said city, within the time they are, or shall be respectively named or elected for, or before other fit persons be respectively named or elected, and sworn in their respective rooms, it shall and may be lawful for the freemen, being inhabitants in, and the freeholders of each respective ward, for which such Alderman, Assistant, Assessor, Collector, or Constable, so dying or removing, had been named or chosen for, to assemble and meet together, at such time and place, in the said respective ward, as shall be appointed by the Mayor of the said city, for the time being, or his deputy, and then and there, by plurality of voices or votes of the freemen, being inhabitants in, and the freeholders of such ward, to elect one of the inhabitants of, and being a freeholder in such ward, or freeman of the said city, to serve as Alderman, Assistant, Assessor, Collector, or Constable, for the said ward, in the room of such Alderman, Assistant, Assessor, Collector, or Constable, so dying or removing; and so, as often as such cases shall happen. And in case the present named, or any future Chamberlain, or any High Constable of the said city, hereafter to be appointed, so sworn, or to be sworn in their respective offices aforesaid, should happen to die, or remove out of the said city, within the time they were or shall be respectively appointed for, it shall be lawful for the Mayor of the said city, for the time being, or his deputy, and four or more Aldermen, and four or more Assistants, for the said city, for the time being, in Common Council, to appoint another fit person to be Cham-

Vacancies of Aldermen, Assistants, or other inferior Offices supplied.

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berlain in the room of such Chamberlain so dying or removing; and for the Mayor of the said city, for the time being, to appoint another fit person to be High Constable in the room of such High Constable so dying or removing, and so as often as such cases shall happen. And all and every such person and persons so to be newly chosen or appointed Alderman, Assistant, Assessor, Collector, Constable, Chamberlain, or High Constable, shall serve in their respective offices, until other fit persons be respectively chosen, or appointed, and sworn, in their respective rooms, each of them (except the Collector) first taking such oaths as hereafter is appointed for each of them respectively to take. C.C.

12. *And we do further*, for us, our heirs, and successors, ordain, grant, and confirm, unto the said Mayor, Aldermen, and Commonalty of the city of New-York, and their successors, forever, that if any one of the inhabitants of the said city of New-York, being a freeholder or freeman, as aforesaid, shall hereafter be elected or chosen to the office of Alderman, Assistant, Assessor, Collector, or Constable, for any ward in the said city, or shall be appointed to be High Constable of the said city, and have notice of his said election, shall refuse, deny, delay, or neglect, to take upon him or them to execute such office, to which he or they shall be so chosen or elected for, that then and so often as it shall happen, it shall and may be lawful for the Mayor, or his Deputy, or Recorder, and any four or more of the Aldermen, and any four or more of the Assistants of the said city, for the time being, in Common Council, to tax, assess, and impose, upon every such person or persons, so refusing, denying, delaying, or neglecting, such reasonable and moderate fine and fines, sum

Fine on Corporate Officers chosen and refusing to serve.

C.C. Note XXVI.

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and sums of money, as they the said Mayor, or his Deputy, or Recorder, and any four or more Aldermen, and any four or more Assistants, in Common Council, shall think fit, so as such fine, for each refusal, denial, delay, or neglect, shall not exceed the sum of fifteen pounds current money of New-York; all which said fines shall and may be levied, by distress and sale of the goods and chattels of such delinquent and delinquents, by warrant under the seal of the said city, signed by the Mayor thereof, for the time being, rendering the surplusage to the owner or owners thereof, (if any be) the necessary charges of making and selling such distresses being first deducted, or, by action of debt, in any court of record, to be prosecuted or any other lawful method to be obtained; and shall be recovered and received by, and to the use of the said Mayor, Aldermen, and Commonalty of the city of New-York, and their successors forever, without any account thereof to be given to us, our heirs, or successors, or to any of the officers, or ministers of us, our heirs, or successors: And upon every such refusal, or neglect, other fit persons to be elected and chosen, in the room and rooms of such persons so neglecting, or refusing, in such manner, as is before directed, or appointed, for electing and choosing of Aldermen, Assistants, Assessors, Collectors, and Constables, and for appointing a High Constable, upon the death or removal of any of them respectively; and so as often as such cases shall happen. D. D.

And we do hereby, for us, our heirs, and successors, grant, appoint, and ordain, that if it shall happen, that the day or days appointed for the naming, appointing, electing, or choosing, or for administering any oath or oaths to any of the officers, or ministers, of the said cor-

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D. D. Note XXVII.

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poration, shall happen to fall on a Sunday, then, and in such case, such naming, appointing, electing, or choosing, so to be made, shall be made, and such oath, or oaths, so to be administered, shall be administered on the next day, and so as often as such case shall happen. E. E.

14. *And further we do*, of our especial grace, certain knowledge, and meer motion, for us, our heirs, and successors, give, grant, ratify, and confirm, unto the said Mayor, Aldermen, and Commonalty of the city of New-York, and their successors, forever, that the Mayor or Recorder, with four or more Aldermen, and four or more Assistants of the said city, for the time being, be, and shall be forever hereafter, called the Common Council of the city of New-York: And that the said Common Council of the said city, for the time being, or the major part of them, have and may, and shall have full power, authority, and license, to frame, constitute, ordain, make, and establish, from time to time, all such laws, statutes, rights, ordinances, and constitutions, which to them, or the greater part of them, shall seem to be good, useful, or necessary, for the good rule and government of the body corporate aforesaid; and of all officers, ministers, artificers, citizens, inhabitants, and residents, of the said city, within the limits thereof, and for declaring how and after what manner and order, the Mayor, Recorder, Aldermen, and Assistants of the said city, for the time being, and all, and every of their officers and ministers, and all officers and ministers, and all artificers, inhabitants, and residents of the same city, and their factors, servants, and apprentices, in their offices, functions, and business, within the said city and the liberties thereof, for the time being, and from time to time, shall use, carry and behave them-

Common Council: how constituted.

Power to make bye-laws.

E. E. Note XXVIII.

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selves; and for the farther public good, common profit, trade, and better government and rule of the said city, and for the better preserving, governing, disposing, letting, and setting of the lands, tenements, possessions, and hereditaments, goods, and chattels, to the aforesaid Mayor, Aldermen, and Commonalty of the said city of New-York belonging, or to them and their successors hereafter to belong, and all other things and causes whatsoever touching or concerning the said city, or the state, right, and interest, of the same, (provided that such laws be not contradictory or repugnant to the laws or statutes of that part of our kingdom of Great Britain called England, or of our said province) which laws, statues, ordinances, and constitutions, so to be made as aforesaid, may be and remain in force for twelve months from the day of the date thereof, and no longer, unless they shall be allowed of, and confirmed by the Governor and Council of the said province, for the time being; and that the said common council of the said city, for the time being, or the greater part of them, as often as they shall make, ordain, and establish, such laws, statutes, rights, ordinances, and constitutions, in form aforesaid, may make, ordain, limit, and provide, such and the like pains, punishments, penalties, either by fines and amerciaments, or by disfranchising and amoving from the liberties, privileges, immunities, and freedom of the said city, or by either of them, towards and against all and every person that shall offend against such laws, statutes, rights, orders, and constitutions, or any or either of them, or by the said Common Council, or the major part of them, shall be thought necessary and requisite to make, ordain, limit and provide, for the observation and preservation of the same laws, rights, statutes, ordinances, and constitutions; and the same fines and amerciaments shall and may, from time to time, levy, receive, have, and recover, either by dis-

And to inflict and levy penalties.

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tress and sale of the goods and chattels of such delinquent and delinquents, by warrant under the hand and seal of the Mayor or Recorder, or any one of the Aldermen, for the time being, rendering the surplusage to the owner or owners thereof (if any be) the necessary charges of making and selling such distress, being first deducted; or by action of debt, in any court of record to be prosecuted, or in any other lawful method to be obtained, and to the use of the said Mayor, Aldermen, and Commonalty of the city of New-York, and their successors forever, without any account thereof to be given to us our heirs, and successors, or to any of the officers or ministers of us, or our heirs, or successors: all and singular, which laws, statutes, rights, ordinances, and constitutions, so as aforesaid to be made, we do, for us, our heirs, and successors, will to be observed, under the pains, penalties, and forfeitures, in the same contained. *And we do further*, of our especial grace, certain knowledge, and meer motion, for us, our heirs, and successors, give, grant, ratify, and confirm, unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors forever, that the Common Council of the said city, for the time being, or the major part of them, shall have the sole power of determining and deciding all elections of all and every their officers and ministers, hereafter to be chosen and elected in, or for the said corporation, or any part thereof. F. F.

Common Council to be called by the Mayor, or in case of his sickness or absence, by the Recorder.

15. *And we do hereby*, for us, our heirs, and successors, ordain, declare, give, and grant, unto the said Mayor, Aldermen, and Commonalty, and their successors, that the Common Council of the said city shall be summoned, called, and held, from time to time, so often, and at such times and places, as the Mayor, or in case of his sickness or absence, the Recorder of the

F. F. Note XXIX.

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said city, for the time being, shall think fit to appoint or direct; and that it shall and may be lawful to and for the said Common Council of the said city, or the major part of them, to assess and lay such reasonable fines and amerciaments in and upon every officer and member of the body corporate aforesaid, for the time being, who after having had due notice, or being duly summoned to appear or attend at any such Common Council, to be held for the said city, shall neglect so to do, or make default therein, or shall not appear or attend according to such notice or summons, in that behalf, or show a reasonable cause, by the said Common Council, or the major part of them, at their discretion to be allowed, and so often as such case shall happen, so that no such fine or amerciament for any one default of appearance or attendance of any such officer or member of the body corporate aforesaid, shall exceed the sum of twenty shillings, in the manner and form aforesaid, to be levied, and by, to, and for the use of the Mayor, Aldermen, and Commonalty, of the said city, and their successors, to be recovered and received, without any account thereof to be given to us, our heirs, or successors, or any of our or their officers or ministers. *And we do further*, for us, our heirs, and successors, give, grant, and comfirm, unto the Mayor, Aldermen, and Commonalty, of the said city of New-York, and their successors forever, that the Common Council of the said city, for the time being, or the major part of them, (but no other person or persons whomsoever, without the consent, grant, or license, of the said Common Council of the said city, for the time being, or the major part of them,) from time to time, and at all times hereafter, shall and may have the sole, full, and whole, power and authority of settling, appointing, establishing, ordering, and directing, and shall and may settle, appoint, establish, order, and di-

Common Council to fine members who shall not attend.

Power to establish ferries.

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rect, such and so many ferries, round Manhattan's Island, alias New-York Island, for the carrying and transporting people, horses, cattle, goods, and chattels, from the said Island of Manhattan to Nassau Island, and from thence back to Manhattan's; and, also, from the said Island Manhattan's to any of the opposite shores all round the same Island, in such and so many places as the said Common Council, or the major part of them, shall think fit, who have hereby, likewise, full power to let, set, or otherwise dispose of, all or any of such ferries, to any person or persons whomsoever; and the rents, issues, profits, ferriages, fees, and other advantages arising and accruing from all and every such ferries; we do hereby fully and freely for us, our heirs, and successors, give and grant unto the Mayor, Aldermen, and Commonalty, of the city of New-York aforesaid, and to their successors forever, to have, take, hold, and enjoy the same, to their own use, without being accountable to us, our heirs, or successors, for the same or any part thereof. G. G.

16. *And we do further*, for us, our heirs, and successors, give, grant, ratify, and confirm, unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors forever, that the Common Council of the said city, for the time being, or the major part of them, have, and from time to time, and at all times hereafter forever, shall have full power, license, and authority, not only to establish, appoint, order, and direct, the making and laying out of all other streets, lanes, alleys, highways, water-courses, and bridges, not already made or laid out, but also the altering, amending, and repairing all such streets, lanes, alleys, highways, water-courses, and bridges, heretofore made or laid out, or hereafter to be made or

Power to build, repair, and lay out bridges, lanes, highways, streets, & alleys.

G. G. Note XXX.

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laid out, in and throughout the said city of New-York, and the Island of Manhattan's, in such manner as the said Common Council, for the time being, or the major part of them, shall think or judge to be necessary and convenient for all inhabitants and travellers there. H. H.

17. *And further*, we do hereby, of our especial grace, certain knowledge, and meer motion, for us, our heirs, and successors, give, grant, ratify, and confirm unto the said Mayor, Aldermen, and Commonalty of the city of New-York, and their successors, that they and their successors, shall and may have, hold, and keep, markets, at five several places (in the said city of New-York, on every day in the week throughout the year, except Sunday) as follows, to wit: One market at Coenties Dock; one other market at the Old Slip, at Burgher's Path; one other market at Countesses Slip: one other market at the lower end of Wall street; and one other market by the Long Bridge. And, also, we do for us, our heirs, and successors, grant unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors forever, that they and their successors shall and may have, hold, and keep such and so many other markets, at such and so many other times and places in the said city of New-York, as shall from time to time be ordered, established, erected, and appointed, by the Common Council of the city aforesaid, for the time being, or the greater number of them. I. I.

Power to establish markets.

18. *And we do further*, for us, our heirs, and successors, give and grant unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors, that they and their successors, may and

The assize of bread, wine, &c.

H. H. Note XXXI.
I. I. Note XXXII.

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shall have the assize and essay of bread, wine, beer, ale, and all other victuals and things whatsoever, set to sale in the said city and the liberties, and limits thereof; and the amending and correcting of the same assize; and all amerciaments, fines and forfeitures to be laid and forfeited, concerning the same, or any part thereof, without any account thereof to be given to us, our heirs, or successors; and to perform, do, and act, by themselves or their deputies all and every thing, needful or necessary in, about, or concerning the same. K. K.

19. *And we do hereby further*, for us, our heirs and successors, grant and give unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors for ever, the office of gauger of and in the said city, to gauge all and singular the wine, rum, brandy, molasses, beer, ale, cider, and other merchandizes and vessels gaugable or to be gauged within the said city; except such liquors as are to pay duty by virtue of any Act of Assembly, until after they have been gauged by the public officer appointed for that purpose: And the office of measurer of and in the said city, to measure salt, wheat, oats, and other grain, and all other merchandises measurable or to be measured in the said city; and also the offices of surveyor and packer of bread, flour, beef, pork, and other provisions, and all other merchandises, and commodities to be surveyed, or packed in the said city; and also the office of cartage, carriage, and portage, of all goods, wares, merchandises, and other things to be carted or carried in or through the said city or any part thereof: And also the office of garbling of all manner of species, and other merchandises and things to be garbled in the city aforesaid: To have and to hold the several offices

Office of Gauger.

Of measurer.

Surveyor and packer.

Cartage, portage.

Garbling.

K. K. Note XXXIII.

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aforesaid, and every of them, and the disposition, ordinances and corrections of the same, and to exercise the same by themselves or their deputies: and to take and receive to themselves all fees, profits and perquisites, to the said offices and every of them, due or to be due, and all the fines, amerciaments and forfeitures to be laid and forfeited concerning the same, or any part thereof, to them the said Mayor, Aldermen, and Commonalty, and their successors, to their own proper use forever, without any account, or any other thing, to us or our heirs, or successors, to be given or made. L. L.

20. *And further*, That the Mayor of the said city, for the time being, and any four or more of the Aldermen, for the time being, shall from time to time, and at all times forever hereafter, have full power and authority, under the common seal of the said city, to make free citizens of the said city and liberties thereof; and that every person so to be made a free citizen shall pay on his being made free, for the use of the said Mayor, Aldermen, and Commonalty, of the city aforesaid, and their successors forever, a sum not exceeding five pounds, New-York money; and we do, for us, our heirs, and successors, give and grant unto the said Mayor, Aldermen, and Commonalty, and their successors forever, full power to ask, take, demand, and receive the same, to their own use and behoof, without any account thereof to be given to us, our heirs, or successors, or any other person or persons whatsoever.

Power to make free citizens.

21. *And we do hereby*, for us, our heirs, or successors, constitute, appoint, and ordain, that no person whatsoever, not being a free citizen of the said city as aforesaid, shall, at any time hereafter, use any art, trade, mystery, or occupation, within the said city, liberties, and precincts thereof, or shall by himself, them-

L. L. Note XXXIV.

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selves, or others, sell, or expose to sale, any manner of goods, wares, merchandises, or commodities, by retail, in any house, shop, place, or standing, within the said city, or the liberties or precincts thereof; save in the times of public fairs,) and that every such person, so using any art, trade, mystery, occupation, or so retailing, contrary to the intent and meaning of these our present letters, and shall persist therein, after warning to him or them thereof given, or left by the appointment of the Mayor of the said city for the time being, or his deputy at the place or places where such person or persons shall so use any art, mystery or occupation, or expose to sale, by retail as aforesaid, any goods, wares, merchandises, or commodities, as aforesaid, shall forfeit the sum of five pounds, New-York money, to and for the use of the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors, for every time that he or she shall so use any trade, mystery, or occupation, or expose to sale, by retail, as aforesaid, any goods, wares, merchandises, or commodities, after such warning given or left as aforesaid:— all and every of which same forfeitures shall and may be levied by distress and sale of the goods and chattels of such delinquent and delinquents, by warrant under the seal of the said city, signed by the Mayor thereof, for the time being or his deputy, rendering the surplusage to the owner or owners thereof (if any be) the necessary charges of making and selling, such distress being first deducted; or by any other lawful method to be obtained; and shall be recovered and received by and to the only use of the Mayor, Aldermen, and Commonalty of the city of New-York, and their successors for ever, without any account thereof to be given to us, our heirs, or successsors, or to any of the officers or ministers of us, our heirs, or successors: *Provided always*, and we do hereby, for us, our heirs and succes-

Privileges of free citizens.

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sors, direct, appoint and order, that no person or persons shall be made free as aforesaid, but such as are or shall be natural born subjects of us, our heirs, or successors, or shall be naturalized or made denizens. *And we do further*, for us, our heirs and successors, ordain and appoint, direct, will, and grant that all and every person and persons, now living, who at any time heretofore, have been admitted free citizens, or into the freedom of the said city of New-York, shall be and remain free thereof, and free citizens, and have and enjoy the said freedom, and all the rights and privileges of freemen and free citizens of the said city of New-York to all intents and purposes whatsoever. M.M.

22. And, for the better preservation of good rule and order in the said city, we do, for us, our heirs and successors, will, ordain, grant, unto the Mayor, Aldermen, and Commonalty, of the said city, and their successors, that the Common Council of the said city, for the time being, or the major part of them, shall have full power and authority to license or appoint by warrant, under the common seal of the said city, or otherwise, one or more surveyors of flour, bread, beef, pork, and other provisions, measures of grain, salt, and all other commodities, gaugers of wine, beer, ale, cider, rum, brandy, and all other saleable or exciseable liquors, garbles, beadles, bell-men, watch-men, bridewell keepers, or keepers of a house or houses of correction, and of alms houses, cryers, and bell-ringers, and to displace all or any of them and put others in their room, and to add or diminish the number of them, or any of them, as often as the said Common Council of the said city, or the major part of them. shall think fit. N. N.

Common Council to appoint surveyors, measurers gaugers, garblers, beadles, &c

23. *And further*, we do for us, our heirs and successors, grant unto the said Mayor, Aldermen, and Common-

M. M. Note XXXV.
N. N. Note XXXVI.

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To erect bridewell or work-houses.

alty, and their successors forever, full power and authority to erect and build, or appropriate any other buildings already built, for one or more bridewell or bridewells, house or houses of correction, and work-house or work-houses, together with full power and authority to the said Mayor, Recorder, and Aldermen, or any one of them, to take up and arrest, or order to be taken up and arrested, all and any rogues, vagabonds, stragglers, and idle and suspicious persons; and as they the said Mayor, Recorder, or Aldermen, or any one of them, shall see cause, to order all or any such rogues, vagabonds, stragglers, and idle and suspicious persons, either to the said work-house, there to remain, and work such work, and so long, not exceeding forty days, or else to bridewell or the house of correction, there to receive such punishment, not extending to the loss of life or limb, as the said Mayor, Recorder, and Aldermen, or any one of them, shall think fit. *And also*, that they the said Mayor, Aldermen, and Commonalty, and their successors forever, may, and shall have power to build, erect, or appropriate, any of their buildings already built for an alms-house, for relief of the poor; together also with as full and ample power to them, and their successors, to order, direct, and act in and about the said houses of correction, work-houses, and alms houses, and the persons to be put in and ordered there, as to any city or corporation, in any place of that part of our realm of Great Britain, called England, and the officers or ministers thereof, doth or may belong. *And also*, that they the said Mayor, Aldermen, and Commonalty, and their successors forever hereafter, may have one or more gaol or goals, in such fit place or places, within the said city and limits and jurisdiction thereof, as by the Common Council of the said city, for the time being, or the major part of them, shall be appointed, to imprison, and safe keep, all and every person and persons for any

Mayor Recorder and Aldermen, or any of them, to commit vagabonds

Corporation to erect an alms-house.

To have one or more gaols to erect

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treasons, murders, felonies, trespasses, evil doings, and all other matters and causes whatsoever, to be arrested or attached, or to be committed to the gaol or gaols aforesaid, in safe custody, there to remain, until they be delivered by due course of law. And that the Common Council of the city aforesaid, for the time being, or the major part of them, shall, and may have power, from time to time, to choose, constitute, and place, one or more fit person, or persons, in the office or offices of keeper or keepers of the gaol or gaols aforesaid, to hold the same during the good pleasure of the Common Council of the said city, for the time being, or the major part of them, as aforesaid requiring, and, hereby, for us, our heirs, and successors, impowering and commanding the keeper and keepers of the gaol or gaols aforesaid, for the time being, that all and singular, traitors, murderers, felons, malefactors, disturbers of the peace, and other delinquents, and all others, for any crime or offence, or other reasonable cause or matters, to the gaol or gaols aforesaid, ordered or committed, or to be committed or ordered, from time to time, shall receive, take, keep, and cause to be kept in the same gaol or gaols, until they shall be thence delivered by due course of law. O. O.

24. *And we do further*, for us, our heirs, and successors, will, ordain, and grant, that the Mayor, of the said city, for the time being, shall forever hereafter, be clerk of the market, of us, our heirs, and successors, within the city aforesaid, and the limits, liberties, and precincts, thereof; and that the Mayorof the said city, for the time being, by himself or his deputy, may and shall have power and authority to do and execute, and shall and may do and execute forever, within the limits, liberties, and precincts, of the said city, all and whatsoever to

Mayor appointed clerk of the market.

O. O. Note XXXVII.

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the office of clerk of the market there doth, shall, or may belong, without any hindrance or impediment of us, our heirs, or successors, or any the officers of us, our heirs or successors; and that no other clerk of the market shall intermeddle there. *And also*, that the Mayor of the said city, for the time being, and his successors, during the time of his and their mayoralties, and no other, be and shall be, the bailiff and conservator of the water of the north and east rivers, and shall and may do, exercise, and execute, the said office of bailiff and conservator of the water of the north and east rivers, or water bailiff, by him or themselves, or by his or their sufficient deputy or deputies, in upon, or about, the same water of the north and east rivers (*that is to say*) in and through all the limits, bounds, and jurisdiction of the said city of New-York, upon all and every the banks, shores, and wharves, of the same water of the north and east rivers, within the limits and bounds aforesaid: and to have, receive, collect, and enjoy, all and singular, wages, rewards, fees, and profits, to the same offices of clerk of the market, and water-bailiff, or any of them, due or to be due, or belonging to his or their own use, without any account thereof, to us, our heirs, or successors, to be made. *And also*, that the Mayor of the said city, for the time being, shall have full power and authority to license or appoint, by warrant, under his hand and seal, or otherwise, one or more marshal or marshals of the said city, porters, carriers, cartmen, carmen, packers, cullers, common cryers, scavengers, and to displace all or any of them, and to put others in their rooms; and to add to, or diminish the number of them, or any of them, when, and as often as the Mayor of the said city, for the time being, shall think fit. P. P.

And water bailiff.

Mayor to licence marshals, porters, carriers, cartmen, carmen, packers, cullers, cryers, and scavengers.

25. *And we do further*, for us, our heirs and suc-

P. P. Note XXXVIII.

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cessors, grant, ratify, and confirm, unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors forever, that the Mayor of the said city for the time being, and no other whatsoever, shall have power to give and grant licenses annually, under the public seal of the said city, to all such persons as he shall think fit to license them, and every of them, to keep a tavern, inn, ordinary, or victualling-house, and to sell wine, brandy, rum, strong waters, cider, beer, ale, or any other sort of exciseable or strong liquors, within the city of New-York, or the liberties and precincts thereof, by retail or the small measure; and that it shall be lawful to and for the said Mayor of the said city, for the time being, to ask, demand, and receive for every such license by him to be given and granted as aforesaid, such sum or sums of money, as he and the person to whom such license shall be given and granted, shall agree for, not exceeding the sum of thirty shillings for each license; all which moneys, as by the said Mayor shall be so received, shall be used and applied to the public use of the said Mayor, Aldermen, and Commonalty, of the said city of New-York, and their successors forever, without any account thereof to be rendered, made, or done, to us, our heirs, or successors, or any other person whatsoever; every and each of which licenses shall continue and be in force for any time, not exceeding one year from the granting thereof, but no longer. *And we do hereby*, for us, our heirs, and successors, constitute, direct, order, and appoint, that no person or persons whatsoever, without such license being in force, shall at any time hereafter keep any tavern, inn, public ordinaries, or victualling-houses, or sell wine, brandy, rum, strong waters, cider, beer, ale, or any other sorts of exciseable or strong liquors, within the city of New-York, or the liberties or precincts thereof, by retail or small

And grant licenses to keep tavern.

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measure, under the penalty of five pounds, current money of New-York, for every time that any person shall act contrary hereto in any respect, to be forfeited and paid by every person, for every time he or she shall offend or act contrary hereto in any respect to and for the use of the said Mayor, Aldermen, and Commonalty of the city of New-York, for the time being; all and every of which penalties shall and may be levied, by distress and sale of the goods and chattels of such delinquent and delinquents, by warrant under the seal of the said city, signed by the Mayor thereof for the time being, or his deputy, rendering the surplusage to the owner or owners thereof, if any be, (the necessary charges of making and selling such distress being first deducted,) or by any other lawful method to be obtained; and shall be recovered and received by and to the only use of the Mayor, Aldermen, and Commonalty of the city of New-York, and their successors forever, without any account thereof to be given to us, our heirs, or successors, or to any of the ministers or officers of us, our heirs or successors. Q. Q.

Mayor, Recorder, and Aldermen, justices of the peace.

26. *And further, we*, of our especial grace, certain knowledge, and meer motion, have given, granted, ratified, and confirmed, and by these presents do, for us, our heirs, and successors, give, grant, ratify, and confirm unto the said Mayor, Aldermen, and Commonalty of the city of New-York, and to their successors forever, that the Mayor, deputy Mayor, Recorder, and Aldermen, of the said city, for the time being, be, and shall be at all times forever hereafter, and hereby are assigned to be justices, and each of them a justice of us, our heirs, and successors, the peace of us, our heirs, and successors, within the city aforesaid, and the limits, jurisdiction, and extent thereof, and within

Q.Q. Note XXXIX.

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the county of New-York, to keep: and that they, the said Mayor, deputy Mayor, Recorder, and Aldermen, of the said city for the time being, or any four or more of them, (whereof we will the Mayor, or deputy Mayor, or Recorder, of the said city, for the time being, to be one,) shall and may forever hereafter hold and keep four courts of general sessions of the peace, in and for the said city and county of New-York, to begin at certain times in the year, *to wit:* one of them to begin on the first Tuesday in November; another on the first Tuesday in February; another on the first Tuesday in May; and the other on the first Tuesday in August, in every year; each of which sessions of the peace, shall and may last, continue, and be held any time, not exceeding four days. *And also*, that they, the said Mayor, deputy Mayor, Recorder, and Aldermen of the said city, for the time being, or any four or more of them, (whereof we will the Mayor, or deputy Mayor, or Recorder of the said city, for the time being, to be one,) shall and may forever hereafter, have full power and authority to enquire of and hear and determine, within the city and county aforesaid, all and all manner of felonies, imprisonments, riots, routs, oppressions, extortions, forestallings, regratings, trespasses, offences, and all and singular other evil deeds and offences whatsoever, within the city and county aforesaid, from time to time perpetrated, done, arising, or happening, which to the office of justices of the peace, are incumbent, or do in any manner belong, or which thereafter shall happen to belong, or be incumbent on them, or which in any manner before justices of the peace ought or may be inquired into, heard and determined, together with the correction and punishment thereof, and to do and execute all other things, within the city and county aforesaid, and the liberties and precincts thereof, as fully, freely, and entirely,

May hold courts of sessions quarter yearly.

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and in as ample manner and form as justices of the peace of us, our heirs, and successors, any where within that part of our Kingdom of Great Britain, called England, by the laws, statutes, or customs of England, or by any other legal method whatsoever, heretofore had or exercised, or hereafter to be had or exercised, could, might, or can do, and in as ample manner and form, as if the same had been in these our letters particularly, and by special words expressed, contained and mentioned. And that the said justices of the peace, of us, our heirs, and successors, in the city and county aforesaid, may have and exercise jurisdiction in all causes, matters, and things, whatsoever, which to justices of the peace of our said city and county, in any manner do, or ought to belong. *And further*, that the Mayor, Recorder, and Aldermen, of the said city, for the time being, and every of them from time to time, and at all times forever hereafter, shall be justices assigned of *Oyer and Terminer*, and of the gaol delivery of all and every the gaols now being, and hereafter to be in the said city and county, and either of them, and shall be named in every commission, thereof to be made. *And we do hereby*, for us, our heirs, and successors, grant, order, and appoint that the Sheriff and other ministers and officers of the said city, for the time being, shall and may, and they are, and each of them is hereby commanded, authorised, and fully empowered to execute and return all and every the precepts and commands of the Mayor, Recorder, and Aldermen, of the said city, for the time being, and either, or any of them, from time to time, at all times, as fully and effectually as any sheriff, minister, or officer, of any county or city, any where in that part of our kingdom of Great Britain, called England, the mandates or commands of any justice of the peace, justice of *Oyer and Terminer*, of gaol delivery of, or

To have jurisdiction in all causes, which to the office of Justices doth or may belong.

Mayor, recorder and Aldermen Justices of *Oyer and Terminer*.

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in any county there, hath used to make return or execute, in any manner whatsoever. R.R.

27. *And we do further*, of our special grace, certain knowledge, and meer motion, will, and by these presents, for us, our heirs and successors, give, grant, ratify, and confirm, unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors forever, that they, and their successors forever hereafter, shall, can, and may have and hold, in the name of us, our heirs, and successors, one court of record, within the city of New-York, and the liberties and precincts thereof, upon every Tuesday in every year, before the Mayor of the said city, for the time being, or his deputy, or the Recorder of the said city, for the time being, and any three or more of the Aldermen, for the time being, or any four or more of them (whereof we will the Mayor of the said city, for the time being, or his deputy, or the Recorder, of the said city, for the time being, to be one.) And, that the Mayor of the said city, for the time being, or his deputy, or the Recorder of the said city, for the time being, and three or more of the Aldermen, and any four or more of them, (whereof we will the said Mayor, or his deputy, or the Recorder, to be one,) shall and may hold, plea, and have cognizance of all and all manner of plaints, actions, and pleas, of any lands and tenements, within the said city of New-York and the limits and precincts thereof; and also of all actions of trespass with force and arms, and without replevin, ejectment, trover, and conversion, trespass upon the case, debt, detinue, covenant, deceits, contracts, contempts, penalties, forfeitures, and all other actions, and pleas, as well real as personal, and mixt, arising and accruing within the said city and limits thereof; together with

Mayor's Court.

R.R. Note XL.

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full power and authority to hear and determine all and every the same, and such actions and pleas aforesaid, and judgments thereon, to render, and executions thereof to award and make, and to act and do every thing therein in such manner and form, and by such, and the like methods, process, and proceedings, as fully and amply as in our other courts of record, in such, or the like cases is used, or can or may be acted and done, according to the laws of that part of our kingdom of Great Britain, called England, and of our said province of New-York.

28. *And we do hereby*, for us, our heirs, and successors, grant, order, and appoint, that the sheriff, and the coroner, and other ministers, and officers, of the said city, for the time being, shall and may, and they are, and each of them is hereby commanded, authorised, and fully empowered, to execute and return all and every the precepts and process of the said court, to them respectively directed, or to be directed, from time to time, and at all times, as fully and effectually as any sheriff, coroner, minister or officer, of or in any city or place within that part of our kingdom of Great Britain, called England, the precepts and processes of any court of record there, hath used, or can or may execute and return, in any manner howsoever; *Provided always*, That the Mayor of the said city, for the time being, or his deputy, or the Recorder of the said city, for the time being, and any three or more of the Aldermen of the said city, or any four or more of them (whereof the Mayor or his deputy, or the Recorder, we will to be one) may and by these presents have and shall have full power to adjourn the said court for any time not exceeding twenty-eight days. S.S.

29. *And we do further* will, and by these presents,

S.S. Note XLI.

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for us, our heirs, and successors, give, grant, ratify, and confirm, unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors, that they and their successors, from henceforth forever hereafter, shall and may have within the city aforesaid, a fit and discreet man to be, and who shall be, and be called, the Common Clerk of the city aforesaid, to act and do all those things within the city aforesaid, and the limits and jurisdiction thereof, which to any Common Clerk of or in any city, borough, or town incorporated, any where in that part of our kingdom of Great Britain called England, by virtue of his office, can or ought to do. And also, that forever hereafter, the Common Clerk of the city aforesaid, for the time being, shall also be clerk of the court of record, to be held before the Mayor, or his deputy, or the Recorder, or any three or more of the Aldermen of the said city, as aforesaid; and also clerk of our peace, and of the peace of our heirs and successors, and of the sessions of the peace, for and in the city and county of New-York, from time to time to be held, and all and singular those things which to the offices of such clerk of the Peace, and of the sessions of the peace, do and shall appertain, to do, act, and execute; and also, shall and may require, demand, take, accept, hold, keep, and enjoy, all fees, perquisites, and profits, which may to any such common clerk, clerk of the peace, and of the sessions of the peace, do or ought to belong. *And we hereby*, give, grant, ratify, and confirm, for us, our heirs, and successors, unto our beloved William Sharpas, Gen. (one of the inhabitants of the city aforesaid) to be the present common clerk of the city of New-York aforesaid; and also clerk of the peace, and of the sessions of the peace, for, and in the city and county of New-York, to continue in the offices aforesaid, during his life, and to act and execute the same offices and

Corporation to have a common clerk.

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places by himself or his deputy. *And we do further*, for us, our heirs and successors, appoint, will, and direct, that the Governor or Commander-in-Chief of the said Province of New-York, for the time being, from time to time, and at all times, after the death of the said William Sharpas, when and so often as the office and place of Common Clerk of the said city shall happen to be vacant, shall and may appoint an honest and discreet man, being one of the inhabitants, and a freeman or freeholder of the said city, to be Common Clerk of the said city, during his good behaviour; and so as often as such case shall happen. *And we do further*, for us, our heirs, and successors, will and grant, that so often as the said office shall be vacant, the Common Council of the said city, for the time being, shall and may appoint one other honest and discreet citizen, being an inhabitant and freeman, or freeholder of the said city, to be Common Clerk of the said city, and Clerk of the said Court of Record, in and for the said city; and Clerk of the Peace, and of the Sessions of the Peace, in and for the said city and county of New-York, to act and execute the said offices, and who shall and may execute, do, and receive, all and whatsoever to the said offices, and every of them, belongs, or shall belong or appertain, till in his room, another honest and discreet person, being an inhabitant and freeman, or freeholder of the said city, shall be appointed into and for the said offices, by the Governor or Commander in Chief of the said province for the time being; and shall have taken such an oath as is hereby directed for every such person so to be appointed, to give and take; and so from time to time, and so often as the case may or shall so happen. T. T.

Vacancy of Clerk supplied.

Vacancy of Clerk supplied.

30. *And further*, we do hereby constitute, name,

T. T. Note XLII.

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and appoint, James Alexander, Joseph Murray, John Chambers, William Smith, George Lurting, William Jamison, Richard Nicolls, and Abraham Lodge, gentlemen, to be the present attornies, and each of them to be an attorney of and in the said court of record, for and during the good behaviour of each of them respectively: And we do hereby, for us, our heirs, and successors, grant and ordain, that no other attorney or attornies, person or persons whomsoever, (besides the aforenamed attornies, during the time that they shall all remain attornies of the said court) shall be permitted or suffered to practice as an attorney of or in the said court; but all and every other attorney and attornies, person and persons (besides the before named attornies, during the time aforesaid) from being an attorney or attornies of or in the said court, and from all practice as such, shall be, and are and each of them is excluded and debarred. *And we do hereby*, for us, our heirs, and successors, give and grant unto the said Mayor, Aldermen, and Commonalty of the city of New-York, and their successors for ever, that the Mayor of the said city, for the time being, or his deputy, or the Recorder, and any three or more of the Aldermen of the said city for the time being, or any four or more of them, (whereof we will the Mayor, or his deputy, or the Recorder of the said city, for the time being, to be one) shall and may (by and with the consent and approbation of our Governor and Commander-in-Chief for the time being) have full power and authority, all or any of the before named attornies of the said court, and all or any other of the persons, hereafter to be appointed or admitted attornies of or in the said court, for their or his evil behaviour, in their or his said duty or office of attornies, or an attorney of or in the same, or his or their being thereof legally convicted from being attor-

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nies, or an attorney of or in the said court to amove, displace, and forever exclude; and after the amoval or death of any two or more of the before named attornies, upon the amoval or death of any other of the attornies before named, or hereafter to be admitted, to recommend one other person to the Governor or Commander in Chief of the said province of New-York for the time being, for his approbation, in the room of such attorney so dying or being removed; each of which persons, so to be recommended, and approved of, as aforesaid, shall and may be admitted and sworn an attorney of, and in the said court; and so often as the case shall happen. *And we do further*, for us, our heirs, and successors, grant and appoint, that no other attorney or person whatsoever, shall, after the death or amoval of any of the before named attornies, be admitted or suffered to practise as an attorney of or in the said court, but what shall be recommended and approved of as aforesaid. *And further*, we do, for us, our heirs, and successors, grant, will, and ordain, that the number of attornies of the said court, shall not at any one time after the death or removal of any two or more of the before named attornies, forever hereafter exceed the number of six:— *Provided*, that nothing herein shall be construed to extend to hinder us, our heirs, or successors, from prosecuting or defending, all or any suits, causes, actions, or prosecutions, in the said Mayor's Court, by our attorney or solicitor general for our said province, or the attorney or solicitor general of us, our heirs, or successors, for the said province, for the time being; nor to hinder the attorney or solicitor general of us, our heirs, or successors, for the said province, for the time being, to practice in the said court as council in any civil cause. U. U.

Attornies for the Mayor's Court.

U. U. Note XLIII.

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31. *And we do further* of our especial grace, certain knowledge, and meer motion, for us, our heirs, and successors, grant, appoint, and direct, that the Mayor, Recorder, and Aldermen, of the said city, for the time being, and each of them, from time to time, and at all times, forever hereafter, shall have, by these presents, full power and authority to have and take cognizance of, and to hear, try, and finally determine, with or without a jury, all pleas, suits, controversies, and trespasses, wherein the value does not exceed the sum of forty shillings, in such manner as they or either of them shall think or judge to be agreeable and according to equity and good conscience; and for the more due proceeding herein, it shall and may be lawful for them or either of them, to administer an oath to the plaintiff or defendant, and also to such witnesses, as shall be produced by each party, if they the said Mayor, Recorder, and Aldermen, or either of them think fit; and in case either of the parties, plaintiff or defendant, shall not perform such order, judgment, or decree, as the said Mayor, Recorder, or Aldermen, for the time being, or any of them, shall make or set down, then it ahall and may be lawful for them or any of them, to commit such party or parties to any prison of or in the said city, there to remain until he she or they, perform such order, and every marshal of the said city for the time being, is hereby commanded and authorized to execute all and any the summonses, precepts, and commands, of them the said Mayor, Recorder, and Aldermen, or any one of them, made, issued, or given in, about, or concerning, such suits, pleas, controversies, and trespasses, or any of them, as shall be to him directed; and every keeper of the gaol for the city of New-York, for the time being, is hereby commanded and authorised to receive, and safe keep, in his goal or custody, all such parties so committed or to be committed to the prison

Mayor, recorder and Aldermen and each of them, to determine all causes with or without a jury, where the thing in demand shall not exceed 40s

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he shall be then the keeper of, until he, she, or they, shall perform such order accordingly.

Sheriff, clerk and all subordinate officers to attend upon the Mayo Recorder and Aldermen, and to execute their commands.

32. *And we do*, for ourselves, our heirs, and successors, by these our present letters, require and strictly charge and command, and fully empower, the sheriff, common clerk, chamberlain, marshal, gaol keepers, high constable, petty constables, and all other subordinate officers, of and in the said city, now chosen, elected, constituted, or appointed, or that hereafter may be chosen, elected, constituted, or appointed, jointly, and severally, as cause shall require, to be obeisant and obedient to, and attend upon the said Mayor, Recorder, and Aldermen of the said city, and every or any of them, at all times hereafter, according to the duty or obligation of their respective offices and places; and to execute all and every, the commands, precepts, warrants, and processes, to them respectively directed and issued, and given out, and to be issued and given out, by them the said Mayor, Recorder, and Aldermen, or any one of them. X. X.

Mayor, his deputy, & other officers to be sworn.

33. *And we do further*, hereby will, declare, and ordain, that before the Mayor, deputy Mayor, Recorder, Aldermen, Assistants, Assessors, Sheriff, Coroner, Common Clerk, Chamberlain, High Constable, and Petty Constables, of the said city, such of them as are hereby appointed and named, and all and every such as hereafter are to be appointed, elected, or chosen, shall, before they be respectively permitted to execute their respective offices, or places aforesaid, respectively be sworn as follow, *to wit:* The hereby named Mayor of the said city, and every other person, hereafter to be appointed to, or for that office, to take the proper oath as such, and well and truly to execute the office of Mayor, and all other offices and places, hereby appointed for each

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X. X. Note XLIV.

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Mayor to execute and act in, and the usual oath of a justice of peace, before the Governor or Commander in Chief of the said province of New-York, for the time being, in presence of three or more of the Aldermen of the said city of New-York, for the time being; or, in case of the absence of the Governor or Commander in Chief, for the time being, then before the oldest counsellor of the said province, for the time being, in the presence of three or more of the Aldermen of the said city for the time being. *And we do hereby*, for us, our heirs and successors, give and grant full power and authority to the Governor or Commander in Chief of the said province for the time being, in the presence of three or more of the Aldermen of the city aforesaid, for the time being, or in case of the absence of the said Governor or Commander in Chief, then to the oldest counsellor of the said province for the time being, in the presence of any three or more of the Aldermen of the said city, for the time being, to administer such oaths accordingly, without any other warrant, commisson, or power from us, our heirs, or successors; and so from time to time, as often as the case shall or may require or happen. *And* the above named Recorder of the said city of New-York, and every other person hereafter to be appointed to or for that office, to take the proper oath, as such officer ought to take, and an oath, well and truly to execute the office of Recorder, and the proper oath of a justice of peace, before the Mayor of the said city, for the time being, or his deputy; to which same Mayor, for the time being, or his deputy, we do, for us, our heirs, and successors, give full power and authority by these presents, to administer such oaths accordingly, in manner aforesaid, without any other warrant, commission, or power from us, our heirs, and successors; and every deputy Mayor or every Alderman hereafter to be appointed to act as deputy Mayor, for the time being, to

Recorder to be sworn.

before the Mayor or his deputy.

Deputy Mayor to be sworn.

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His oath. take the proper oath as such, an oath, well and truly to execute the office of a deputy Mayor, during the time for which he shall be appointed deputy, if the same Mayor, his constituent, shall so long live: And if the said Mayor shall happen to die within such time that thereupon, and from thenceforth, such deputy Mayor shall well and truly execute the office of Mayor of the said city, until another fit person be appointed and sworn Mayor of the said city, in the manner in these present letters mentioned; and shall also take the proper oath of a justice of the peace, before the Mayor or Recorder, and any three or more of the Aldermen of the said city for the time being. *And we do hereby*, for us, our heirs, and successors, give full power and authority to the Mayor, or Recorder of the said city and to any three or more of the Aldermen of the said city, for the time being, to administer such oaths, as aforesaid, without any other warrant, commission, or power from us, our heirs, or successors. *And also*, every Alderman hereby appointed, and every person hereafter to be elected to or for the office or place of Alderman of or in the said city, to take an oath, well and truly to execute the office or place of Alderman, and the proper oath of a justice of peace, before the Mayor of the said city, for the time being, or his deputy, or the Recorder of the said city, for the time being: And also every Assistant, Assessor, Sheriff, Coroner, Common Clerk, Chamberlain, High Constable, and Petty Constable, hereby named, and every person hereafter to be elected or appointed to or for the office or place of an Assistant, Assessor, Coroner, Common Clerk, or Chamberlain, or shall be appointed or elected to or for the office or place of High Constable or Petty Constable of or in the said city, each of them respectively to take the proper oath for his respective office, or place, and well and truly to execute the respective offices or places he is or

Mayor or recorder and any three or more Aldermen to administer such oath.

Aldermen assistants assessors, sheriff, coroner, clerk, chamberlain, High constable and

petty constables,

be sworn before the

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shall have been respectively elected or named for before the said Mayor of the said city for the time being, or his deputy, or the Recorder of the said city for the time being. *And we do hereby* give full power and authority to the Mayor of the said city, for the time being, or his deputy, or the Recorder of the said city for the time being, to administer such respective oaths to each of the respective persons aforesaid, accordingly, without any other warrant, power, or authority, from us, our heirs, or successors. Y. Y.

Mayor, or his deputy or recorder.

34. *And further*, of our especial grace, certain knowledge, and meer motion, we have granted and by these presents do, for ourselves, our heirs, and successors, grant and confirm unto the aforesaid Mayor, Aldermen, and Commonalty of the city of New-York aforesaid, and to their successors, that neither they, nor any of them, nor any free citizen of the said city, during the time of their being inhabitants there, shall against their or any of their wills, out of the city aforesaid, be put or empanelled upon or in any assizes, juries, or inquisitions whatsoever, (although it toucheth or doth or shall touch us, our heirs or successors, and although we, or our successors, be, or should, or shall be parties) out of the said city, neither shall they or any one of them be made, elected, or chosen Assessor, Taxer, or Collector of any taxes, duties, imposts, or subsides, whatsoever, or of any part or parcel of them, or of any of them, out of the said city; nor shall be ordained, elected, assigned or appointed constable, bailiff, or any other officer or minister, without or beyond the city aforesaid, and the liberties and precincts thereof; nor shall be called upon, compelled, or forced, against their or any of their wills, to do, receive, occupy, or discharge, any of the duties or functions above mentioned, or any other

No free citizens of the city to be compelled against their wills to serve on any inquest or juries, or to execute any office out of the jurisdiction of the city.

Y. Y. Note XLV.

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office, duty, or function, whatsoever, without the city, liberties, and precincts aforesaid. And although the aforesaid Mayor, Recorder, and Aldermen, Freemen, or free citizens, of the city aforesaid, or any of them, shall, while they are or remain inhabitants of the said city against their, or any of their wills, be put impanelled, or returned upon any assizes, juries, or inquisitions whatsoever, out of the said city and limits thereof; or shall to any of the offices above mentioned, or any other office or function whatsoever, out of the said city, be elected or chosen; and though they, or any of them, being summoned, impanelled, or returned, elected, or chosen, as aforesaid, shall refuse or neglect to come and appear before our justices, or other justices, commissioners, or officers, of us, our heirs, or successors, (before whom such assizes, juries or inquests shall happen to be summoned or returned) or in or upon the same assizes, juries, or inquests, shall refuse or neglect to be sworn or tried, or any of the offices, duties, or functions, aforesaid, shall refuse to do, receive, occupy, or discharge, yet the person or persons so refusing any contempts, fines, amerciaments, penalties, forfeitures or loss whatsoever, by reason of such refusal or neglect, to or towards us, our heirs, or successors, shall not, nor either of them, shall in any wise incur, but therefrom and thereof, as well as before us, our heirs, and successors, as all other the justices, commissioners, and other officers whatsoever of us, our heirs, or successors, shall remain quiet, and forever discharged. *Z. Z.*

Confirmation to all the inhabitants, of their houses, lands, tenements, and hereditaments.

35. *And further*, we do for us, our heirs, and successors, by these present letters give, grant, ratify, and confirm, unto all and every the respective inhabitants and freeholders of the said city of New-York, and their several and respective heirs and assigns forever, all and

Z. Z. Note XLVI.

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every the several and respective messuages, tenements, lands, and hereditaments, situate, lying and being in the said city, and Manhattan's Island aforesaid, to them severally and respectively granted, conveyed or confirmed, or mentioned or intended to be granted, conveyed, or confirmed, by any of the late Governors, Lieutenant-Governors, or Commanders-in-Chief, of the said province, or by any of the former Mayors, or deputy Mayors, and Aldermen and Commonalty of the said city of New-York, by that or any other name, stile, or title, or by others claiming under any such grant or conveyance, to have and to hold to them respectively, and to their respective heirs and assigns forever; saving and reserving the several rents and quit-rents, reserved and due, and to be due and payable from each of the several persons, to whom by virtue of any former grants to them (or those from or under whom they respectively hold) the same messuages, tenements, lands, or hereditaments were made or given. A. A. A.

36. *And further*, of our especial grace, certain knowledge, and meer motion, we do, for us, our heirs, and successors, give, grant, ratify, and confirm to the said Mayor, Aldermen, and Commonalty, of our said city of New-York, and to their successors forever, full, special, and free liberty, license, power, and authority, to take, receive, have, hold, and enjoy, to them and their successors forever, in fee simple, any manors, messuages, lands, tenements, hereditaments, rents, and other possessions and real estate, within or without the same city, as well of and from us, our heirs, and successors, as of and from all and every other person and persons whomsoever; so as the manors, messuages, lands, tenements, hereditaments, rents and other possessions and real estate, which the Mayor, Aldermen,

Corporation to purchase and hold lands so as the clear yearly value exceed not £3000 sterling per annum.

A.A.A. Note XLVII.

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and Commonalty of the city of New-York, shall and may have in their possession and seizen, at any one time, exceed not in the whole, the clear yearly rent or value of three thousand pounds per annum, money of our realm of Great Britain, beyond and above all charges and reprises, without any hindrance of us, our heirs, or successors, or the justices, escheators, sheriffs, coroners, bailiffs, or other the ministers of us, our heirs or successors; and this without any other letters patent, liberty, license, or power, from us, our heirs, or successors; the statute of *Mortmain*, or any other act, law or statute, or any other cause, thing, or matter, whatsoever, to the contrary thereof in any wise notwithstanding; and the same manors, messuages, lands, tenements, hereditaments, rents, and other possessions, or any part thereof, to demise, grant, lease, and set over, assign and dispose, at their own will and pleasure, and to make, seal, and accomplish, any deed, or deeds, lease, or leases, evidences, or writings, for or concerning the same or any part thereof. B. B. B.

Grant and confirmation to the Corporation of their buildings markets, ferries, vacant lands, docks, wharfs, &c and between high and low water mark on Manhattan's Island, and at & adjoining the ferry at Brooklyn.

37. *And we do*, by these presents, of our especial grace, certain knowledge, and meer motion, give, grant, ratify, and confirm, unto the said Mayor, Aldermen, and Commonalty, of the city of New-York, and their successors forever, all those the now City Hall and gaols, rooms or places, for the courts of justice and chambers adjoining, with the ground and appurtenances thereto belonging, the five market houses, the great dock, the now crane and wharf, with the common sewer leading through the great dock and bridge, and also the Magazine, or Powder-house, near the fresh water, all in the city of New-York, and the ferry and ferries on both

B. B. B. Note XLVIII.

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sides of the East River, and all other ferries now and hereafter to be erected and established all round the Island of Manhattan's; and the management and rule of, and all fees, ferriages, and perquisites to the same, or any part thereof belonging, or to belong; and also the ferry houses on Nassau-Island, with the barns, stables, penn, or pounds, and lot of ground thereto belonging; and also all the ground, soil or land, between high water and low water mark, on the said Island of Nassau, from the east side of the place called Wallabout to the west side of Red Hook; and also to make laws and rules, for the governing and well ordering of all the ferries now erected or established, or hereafter to be erected or established round the said Island Manhattan's; and all the waste, vacant, unpatented, and unappropriated land lying and being within the said city of New-York, and on Manhattan's Island aforesaid, extending to low-water mark; together with the right, benefit, and advantage, of all docks, wharfs, cranes, and slips, or small docks within this city, with the wharfage, cranage, and dockage, and all issues, rents, profits, and advantages arising, or to arise or accrue by or from all or any of them; and all rivers, rivulets, creeks, coves, ponds, waters, watercourses, fishing, fowling, hunting, and hawking, mines, and minerals, and other royalties and privileges within the city of New-York, and Manhattan's Island; and also all and singular other the rights, privileges, liberties, franchises, pre-eminences, advantages, jurisdictions, courts, powers, offices, authorities, markets, ferries, ferriages, fees, fines, amerciaments, perquisites, profits, immunities, lands, tenements, rents, possessions, and hereditaments, and other real estate, not only which in the before recited grant or writing made or mentioned to be made, in the year of our Lord one thousand six hundred and eighty-six, and in the before recited letters patent of Queen Anne, mentioned or intended to

Grant by former charters confirmed.

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be thereby, or by either of them granted or conveyed, but also, which the Mayor, Aldermen and Commonalty, of the city of New-York, or their predecessors, inhabitants, or citizens of the said city of New-York, or any part thereof, by whatsoever other name, style or title they or any of them, have been known or called, have, held, or claimed to hold by perscription or otherwise, (silver and gold mines excepted) and also, except our Fort George, in our city of New-York, and the ground, full boundaries, and extent thereof, or thereto belonging, and also that piece of ground near the English Church, called the Governor's Garden, and the land called the King's Farm, with the swamp next to the same: and saving the several rents, reserved by virtue of former grants, and saving to all other persons, bodies politic and corporate, their respective titles, to any of the said lands or tenements; and saving to the inhabitants, or those that have plantations by the water-side, between Wallabout and Red-Hook, the right of transporting themselves, and their own goods only, in their own boats, from and to their respective dwellings or plantations, without paying ferriage, *to have and to hold* all and singular the premises aforesaid, and every part and parcel thereof (except and saving, as is herein excepted and saved) unto the said Mayor, Aldermen and Commonalty of the city of New-York, and their successors forever to their only proper use and behoof forever. C.C.C.

38. *And* also, we do further, of our especial grace, certain knowledge, and meer motion, give, grant, ratify and confirm unto the said Mayor, Aldermen and Commonalty, of the city of New-York, and to their successors forever, all that space of ground and soil of Hudson's River now lying and being under the water of the

C.C.C. Note XLIX.

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same river, to begin at a certain place, near high-water mark, at the south end of a piece of upland, which lies between the said river, and a piece of meadow ground or marsh, being the first piece of meadow ground or marsh near Hudson's River, to the southward of Greenwich, and from whence the above named run of water called Bestaver's Killitie, or rivulet, runs into Hudson's River, from which place of beginning to extend or run to the south side of the street which runs from the parade before our fort in New-York to Hudson's River, south, eighteen degrees, thirty minutes west, on a straight line, the distance being one hundred and twenty-five chains, from which line to run a perpendicular breadth of, and to comprehend four hundred feet from low-water mark, into Hudson's River, the same containing eighty-two acres, and one half acre, or thereabout. And also, all that space of ground and soil of the East River, from the north side of Corlaer's-Hook to Whitehall, beginning at two large stones, set on the south side of a small creek in a marsh on the north side of Corlaer's-Hook; from whence to the eastermost point of Corlaer's-Hook, the distance on a straight line, running south, fifteen degrees thirty minutes east, is forty chains and two rods; from thence to Whitehall, on a straight line, running south, seventy-eight degrees thirty minutes west, the distance is one hundred and fifty-two chains, from which two lines, to run a perpendicular breadth of, and to comprehend four hundred feet from low-water mark into the East River, the same containing one hundred and twenty-seven acres, or thereabouts; together with all and singular the benefits, liberties, privileges, ways, water-courses, easements, wharfs, keys, profits, hereditaments, and appurtenances to the same, or any part thereof belonging or appertaining, or to belong or to appertain, or that can in any wise be had, made, used, or enjoyed thereon, or there-

Grant of the soil under water, from Bestaver's Killitie to the fort on the North river.

And of the soil of the East river from Corlaer's hook to the Whitehall

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with used, with full power and authority at any time or times hereafter to fill, make up, wharf, and lay out, all and every part thereof; and the same to build upon and make use of in such manner as they, the said Mayor, Aldermen, and Commonalty, and their successors, shall think fit; and also all our estate, right, title, interest, benefit, claim and demand whatsoever, of, in, or to the same, and the reversion and reversions, remainder and remainders, and the yearly and other rents, issues and profits, thereof; *To have and to hold*, all and singular the premises aforesaid, unto them the said Mayor, Aldermen, and Commonalty, and their successors, to their own proper use and behoof for ever, and to no other use, intent, or purpose, whatsoever. *Provided always*, that nothing in these presents, shall be construed to empower or entitle the said Mayor, Aldermen, and Commonalty, of the city of New-York, or their successors, to wharf out before any persons who have prior grants, from us, or some or one of our predecessors, of keys or wharfs beyond low-water mark, without the actual agreement or consent of such persons, their heirs, or assigns, owners of such keys or wharfs. *And also*, that of the wharves to be built or run out, there shall be left towards the East and North rivers, forty feet broad, as well for the greater conveniency of trade, as at any time or times hereafter, for us, our heirs, and successors, to plant batteries thereon, in case of any necessities; to do which, we do, for us, our heirs, and successors, hereby reserve power; any thing herein contained to the contrary, in any wise notwithstanding; they, the said Mayor, Aldermen, and Commonalty, and their successors, rendering, yielding, and praying, for all and every the rights, privileges, franchises, pre-eminences, advantages, jurisdictions, courts, powers, offices, authorities, fines, amerciaments, per-

Power to wharf out the same.

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quisites, fees, ferriages, profits, immunities, lands, tenements, rents, possessions, hereditaments, and other real estate, and all other the premises, in and by these letters, before and hereafter granted, or meant, mentioned, or intended to be hereby granted unto us, our heirs, and successors, or unto our or their receiver-general for the said province of New-York, for the time being, at the custom-house, in the said city of New-York, yearly and every year, on the feast day of St. Michael, the Arch-Angel, the annual rent of thirty shillings, proclamation money, besides and over and above the yearly quit-rent of one Beaver-skin, or the value thereof, in current money of our said province, in and by the aforesaid recited grant, made in the year one thousand six hundred and eighty-six, reserved to be paid on the twenty-fifth day of March, yearly forever; and also the yearly quit-rent of five shillings, current money of New-York, in and by the before recited letters patent of Queen Anne, reserved to be paid at or upon the feast day of St. John the Baptist, yearly forever. D. D. D.

Corporation quietly to enjoy all their rights and privileges.

39. *And we do further*, of our especial grace, certain knowledge, and meer motion, for us, our heirs, and successors, by these presents, give and grant unto the aforesaid Mayor, Aldermen, and Commonalty of the said city of New-York, and their successors forever, that they and their successors, all and singular the rights, privileges, franchises, pre-eminences, advantages, authorities, jurisdictions, liberties, offices, courts, powers, immunities, ferries, ferriages, profits, and perquisites, hereinbefore mentioned, or intended to be hereby granted or confirmed, shall and may for ever hereafter, have, hold, enjoy, and use, without the hindrance or impediment of us, our heirs, or succes-

D.D.D. Note L.

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sors, or of any of the justices, sheriffs, escheators, coroners, bailiffs, or other officers, or ministers, whatsoever, of us, our heirs, or successors, albeit the same or some, or any one of them, have not been used, or may have been abused, misused, or discontinued, forfeited, or lost, being unwilling, and hereby forbidding, that the said Mayor, Aldermen, and Commonalty, or their successors, or any of them, by reason of the premises aforesaid, or any part thereof, by us, our heirs, or by the justices, sheriffs, escheators, bailiffs, or other officers or ministers of us, our heirs, or successors, be hindered, molested, vexed, or aggrieved, or in any wise disturbed; being willing, and by these presents, for ourselves, our heirs, and successors, commanding as well all the judges, and justices of us, our heirs, and successors, as the attorney and solicitor-general of us, our heirs, and successors, for the said province, for the time being; and also all other officers and ministers whatsoever of us, our heirs, and successors, for the time being, that neither they, nor any of them, do prosecute or continue, or cause to be prosecuted or continued, any information, or any writ, or summons of *Quo Warranto*, or any other writ or writs, prosecution, suit, or processes, whatsoever. against the aforesaid Mayor, Aldermen, and Commonalty of the city of New-York, or their successors for the time being, or against any of them, for any causes, things, offences, claims, usurpations, or omissions, or any of them, by them, the said Mayor, Aldermen, and Commonalty, or any of them, or by the predecessors, or any of them, or by any other Mayor, Aldermen, and Commonalty of the city of New-York, or any of them, done, attempted, claimed, used, had, usurped, or committed, or omitted at any time before the making of these letters. And we being willing also that the said now Mayor, Aldermen, and Commonalty of the city

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of New-York, and their successors, shall not, nor shall any, or either of them, be molested, or impeached, by or before any judge or judges, justice or justices, sheriffs, officers, or other ministers aforesaid, in or for any use, claim, abuse, usurpation, of any the aforesaid, or of any other liberties, franchises, or jurisdictions, within the city aforesaid, and the liberties and precincts thereof, before the day of the making of these letters, had used, claimed, abused, or usurped, nor to or for them, or any of them, or for any other thing whatsoever, shall be compelled to answer; and also of our more abundant especial grace, certain knowledge, and meer motion, we have given, pardoned, remitted, released, and quit-claimed, and by these presents do, for ourselves, our heirs and successors, give, pardon, remit, release, and quit-claim to the aforesaid Mayor, Aldermen, and Commonalty of the city of New-York aforesaid, and to their successors forever, by whatsoever name the same Mayor, Aldermen, and Commonalty may be called, named, or styled, or lately heretofore were called, styled, named, or titled, all and all manner and actions whatsoever informations and suits of *Quo Warranto* and other informations, suits, and prosecutions; and also, all and singular usages, non-usages, abuses, forfeitures, usurpations, intrusions, omissions, and also, all unjust claims of any rights, privileges, liberties, franchises, jurisdictions, courts, powers, offices, fees, fines, amerciaments, ferries, ferriages, perquisites, rents, possessions, lanes, tenements, or hereditaments, whatsoever, by the aforesaid Mayor, Aldermen, and Commonalty of the city aforesaid, or by any of their predecessors, or by any other Mayor, Aldermen, and Commonalty of the city of New-York, by whatsoever name or names, or incorporation, or by pretext of any incorporation, before the day of the making of these presents, perpetrated,

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made, or claimed; and, also, all and all manner of fines, amerciaments, penalties, sums of money, and other forfeitures whatsoever, by reason of such usurpation, intrusion, usage, non-usage, omission, abuse, or unjust claim, and that they, the said Mayor, Aldermen, and Commonalty of the city of New-York, and their successors, and every of them be, and shall be, and hereby are, thereof fully acquitted, and discharged towards us, our heirs, and successors, forever; being unwilling that they, or any of them, should, by reason of the premises aforesaid, or any part thereof, by us, our heirs and successors, or by any of our justices, sheriffs, ministers, or officers, whatsoever, be troubled, molested, or in any wise vexed. E. E. E.

Covenant that the corporation shall quietly enjoy all their franchises and lands.

40. *And further*, we do of our especial grace, certain knowledge, and meer motion, will, declare and signify, and by these presents, for us, our heirs, and successors, do grant unto, and covenant with the said Mayor, Aldermen and Commonalty, of the city of New York, and their successors, not only that they and their successors forever hereafter may, and shall, have, hold, use, possess and enjoy all the rights, privileges, liberties, franchises, jurisdictions, courts, powers, offices, authorities, markets, ferries, fees, fines, amerciaments, perquisites, profits, immunities; and also all the rents, possessions, lands, tenements and hereditaments, and all other the premises in these presents mentioned, and intended to be hereby granted and confirmed; but also, that these our letters, being entered upon record, as is hereinafter appointed, and the record or inrollment thereof, and either of them, and all and every thing therein contained, from time to time, and at all times hereafter, be, and shall be, firm, valid, good, sufficient, and effectual in law towards and against us, our heirs,

E. E. E. Note LI.

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and successors, according to the true intention thereof; and in and through all things shall be construed, taken, and expounded most benignly, and in favour, and for the most and greatest advantage, profit, and benefit of the said Mayor, Aldermen and Commonalty of the city of New-York, and their successors, as well in all courts as elsewhere, without any confirmation, licenses, tolerations, procured or to be procured, of us, our heirs, or successors, notwithstanding that any writ or writs of *ad quod damnum*, hath or have not issued, or is or are not returned, before the making of these presents, and notwithstanding the not reciting, misreciting, or not rightly or certainly reciting, or ill or wrong reciting the said rights, privileges, liberties, franchises, jurisdictions, courts, powers, offices, authorities, markets, ferries, fees, amerciaments, perquisites, profits, immunities, rents, possessions, lands, tenements, hereditaments, and any other the premises, in or by these presents granted, or mentioned, or intended to be hereby granted, or any part or parcel thereof, and notwithstanding the not finding, or ill or not right or certain finding of any office or offices, inquisition or inquisitions of the premises, hereby granted or mentioned, or intended to be hereby granted, or any part or parcel thereof, by which our title in and to the said premises, or any part thereof, might, could, should, or ought to have been found, before the making of these presents; and notwithstanding any defect in not reciting or ill reciting of any lease, grant, or grants, of the premises, or any part thereof, being upon record, or not upon record, or otherwise, howsoever; and notwithstanding the ill naming, misnaming, or not right or certain naming any place or precinct, wherein the premises, or any part thereof, are or is; and notwithstanding any defect in not mentioning, or not fully, rightly, or certainly, mentioning the name or names of all or any the rights,

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privileges, liberties, franchises, jurisdictions, courts, powers, offices, authorities, markets, ferries, fees, amerciaments, perquisites, profits, immunities, rents, possessions, lands, tenements, hereditaments, or other the premises, hereby granted, or intended to be granted, or any part or parcel thereof; or of the yearly, or other rent of, or reserved in, and upon the premises, or any part thereof; and notwithstanding any defect, for the want of a computation or declaration, or for the omission of the true value of the premises, in these presents mentioned or intended to be hereby granted, or any part thereof, and notwithstanding any defect in not mentioning our true right, estate, or title of or to the same premises, or any part or parcel of them; and notwithstanding, the not mentioning, or not fully, rightly, or certainly, mentioning the natures, kinds, species, or quantities of the premises, or any of them, or any part or parcel of them; and notwithstanding any act, statute, or ordinance of parliament, or any act of assembly; and notwithstanding any other defects, defaults or imperfections, or any other cause or thing whatsoever. And further, that if any fault, mistake, or imperfection, in time to come, shall be found in these presents, or any doubt, scruple or question, be, or shall be made, or shall happen to arise, concerning the premises, or any part thereof, that we, our heirs, and successors, shall and will vouchsafe to make any other grant or assurance, under the great seal of us, our heirs, or successors, of the said province of New-York, to the Mayor, Aldermen and Commonalty of the city of New-York, for the time being, and their successors, at their own proper charges, for the better giving, granting, and confirming, and for their safe and better enjoying the premises aforesaid, and every part thereof, when it shall be desired by the same Mayor, Aldermen and Commonalty of the city of New-York, or their successors. Also, we

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will, and by these presents grant unto the said Mayor, Aldermen and Commonalty, that they shall and may have these presents, made and sealed under the great seal of our said province of New-York, without rendering, paying or making any fine or fee, great or little to us, or to our use, for the same, although no express mention is made of the true yearly or other value, or of the certainty of the premises, or any part thereof, or of the gifts or grants, heretofore by us, or our ancestors, or by any Governor, Lieutenant Governor, or Commander-in-Chief, of the said province of New-York, to the Mayor, Aldermen and Commonalty, of the said city of New-York, or to the citizens or inhabitants of New-York, aforesaid, by that or any other name, style or title, or any other statute, act, ordinance, proclamation, provision or restriction, made, published, ordained or provided to the contrary, or any other cause or matter whatsoever, in any wise notwithstanding. F. F. F.

In Testimony whereof, we have caused these our letters to be made patent, and the great seal of our said province to be hereunto affixed, and the same to be entered of record in our secretary's office of our said province, in one of the books of patents there remaining. *Witness* our trusty and well-beloved *John Montgomerie*, Esq., our Captain General and Governor in Chief of our said province of New-York, and the province of New-Jersey, and territories depending thereon in America, and Vice-Admiral of the same, &c. at our Fort George in New-York, the fifteenth day of January, in the fourth year of our reign. Date of the Charter.

May it please your Excellency,

I HAVE perused this Charter, and find nothing

F. F. F. Note LII.

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therein prejudicial to the interest of his Majesty.

To his Excellency,
The Governor of the province of
New-York, &c.

R. BRADLEY,
Attorney General.

15*th January*, 1730.

MEMORANDUM.

THIS REPRINT of the Charter has been made from one printed by order of the Common Council in 1832, and that was taken from a prior copy certified many years before by T. Wortman, as City Clerk, to be a true copy. The Editor has compared the Edition of 1832 with the Charter as reprinted in 1793 by Hugh Gaine, and certified to be a true copy by Robert Benson, Clerk. That was the best printed, and probably the most accurate copy of the Charter that has appeared. Several palpable Errors in the copy of 1832 have been detected, and the *Errata* at the end of this volume, will contain those of them and others which have unavoidably crept into the present Edition.

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An ACT *for confirming unto the city of* New-York, *its rights and privileges.*

Passed the 14th of October, 1732.

I. *BE it declared and enacted by the Governor, the Council, and the General Assembly of the colony, of* New-York, *and it is hereby enacted by the authority of the same*, That the Mayor, Aldermen and Commonalty, of the city of New-York, shall, and may, forever hereafter remain, continue, and be a body corporate and politic, *in re facto et nomine* by the name of the Mayor, Aldermen and Commonalty of the city of New-York; and by that name to sue, plead, and be impleaded, and to answer, and to be answered, without any seizure or forejudger, for, or upon any, pretence of any forfeiture or misdemeanor at any time heretofore done, committed, or suffered.

6th *GEO. II.* A.D. 1732.

The Mayor, Aldermen, and Commonalty of the city of New-York,

II. *And be it enacted by the authority aforesaid*, That all and singular letters patent, grants, charters, and gifts, sealed under the great seal of the colony of New-York, heretofore made and granted unto the Mayor, Aldermen, and Commonalty, of the city of New-York, be, and are hereby declared to be, and shall be good, valid, perfect, authentic, and effectual in the law, and shall stand, be taken, reputed, deemed, and adjudged good, perfect, sure, available authentic, and effectual in the law, against the King's Majesty, his heirs, and successors, and all and every person and persons, whomsoever, according to the tenor and effect of the said letters patent, grants, charters, and gifts.

All letters patent, &c. heretofore made to them declared valid.

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And confirmed.

III. *And be it enacted by the authority aforesaid,* That all and singular letters patent, grants, charters, and gifts, sealed under the great seal of the colony of New-York, heretofore made and granted unto the Mayor, Aldermen, and Commonalty of the city of New-York, be, and are, to all intents and purposes, hereby ratified and confirmed.

All their rights, privileges, franchises &c. confirmed.

IV. *And be it enacted by the authority aforesaid,* That the Mayor, Aldermen and Commonalty of the city of New-York, and their successors, shall, and may forever hereafter, peaceably have, hold, use, and enjoy, all and every the rights, gifts, charters, grants, powers, liberties, privileges, franchises, customs, usages, constitutions, immunities, markets, duties, tolls, lands, tenements, estates and hereditaments, which have heretofore been given, or granted, unto the Mayor, Aldermen and Commonalty of the city of New-York, by any letters patent, grant, charter, or gift, sealed under the seal of the colony of New-York.

V. *And be it enacted by the authority aforesaid,* That this present act shall be accepted, taken, and reputed, to be a general and public act of Assembly; of which all and every the judges, and justices of this colony, in all courts, and all other persons, shall take notice on all occasions whatsoever, as if it were a public act of assembly, relating to the whole colony; any thing herein contained to the contrary thereof in any wise notwithstanding.

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AN ACT

TO AMEND THE

CHARTER

OF THE

CITY OF NEW-YORK.

PASSED APRIL 7, 1830.—CH. 122.

The People of the State of New-York, represented in Senate and Assembly: Do enact as follows:—

1. The legislative power of the Corporation of the City of New-York, shall be vested in a board of Aldermen, and a board of Assistants, who together shall form the Common Council of the City. Legislative power.

2. Each Ward of the City shall be entitled to elect one person to be denominated the Alderman of the Ward, and the persons so chosen, together shall form the Board of Aldermen; and each Ward shall also be entitled to elect one person to be denominated an Assistant Alderman; and the persons so chosen, together shall form the Board of Assistants. Each ward entitled to Aldermen and Assistants.

3. The Aldermen and Assistant Aldermen shall be chosen for one year; and no person shall be eligible to either office, who shall not at the time of his election, be a resident of the Ward for which he is chosen. Who are eligible.

The annual election for Charter Officers shall com- Election of &c.

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mence on the second Tuesday in April, and the Officers elected shall be sworn into office on the second Tuesday in May thereafter; and all the provisions of law now in force in regard to the notification, duration and conduct of elections for Members of Assembly, and in regard to the appointment, powers and duties of the inspectors, holding the same, shall apply to the annual election of Charter Officers.

First election on the second Tuesday of April, 1831.

5. The first election for Charter Officers, after the passage of this law, shall take place on the second Tuesday in April, one thousand eight hundred and thirty-one; and all those persons who shall have been elected under the former laws regulating the election of Charter Officers, and shall be in office at the time of the passage of this law, shall continue in office until the officers elected under this law shall be entitled to be sworn into office.

Power to direct special election.

6. The Board of Aldermen shall have power to direct a special election to be held, to supply the place of any Alderman whose seat shall become vacant by death, removal from the city, resignation, or otherwise; and the Board of Assistants shall also have power to direct a special election to supply any vacancy that may occur in the Board of Assistants; and in both cases, the person elected to supply the vacancy, shall hold his seat only for the residue of the term of office of his immediate predecessor.

Meeting of the Board and their duties.

7. The boards shall meet in separate chambers, and a majority of each shall be a quorum to do business. Each board shall appoint a President from its own body, and shall also choose its Clerk and other officers, determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each board shall keep a journal of its proceedings, and the doors of each shall be kept open, except when the public welfare shall require secrecy; and all resolutions

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and reports of Committees which shall recommend any specific improvement involving the appropriation of public monies, or taxing or assessing the citizens of said city, shall be published immediately after the adjournment of the board, under the authority of the Common Council, in all the newspapers employed by the Corporation: and whenever a vote is taken in relation thereto, the ayes and noes shall be called and published in the same manner.

Power to expel. &c.

8. Each board shall have the authority to compel the attendance of absent members; to punish its members for disorderly behaviour, and to expel a member, with the concurrence of two-thirds of the members elected to the board; and the members so expelled, shall, by such expulsion, forfeit all his right and powers as an Alderman or Assistant Alderman.

Occasional meeting

9. The stated and occasional meetings of each board of the Common Council, shall be regulated by its own ordinances; and both boards may meet on the same or on different days as they may severally judge expedient.

Laws ordinances & resolutions may originate in either board.

10. Any law, ordinance, or resolution of the Common Council may originate in either board, and when it shall have passed one board, may be rejected or amended by the other.

Prohibition of members to hold office.

11. No member of either board shall, during the period for which he was elected, be appointed to, or be competent to hold any office, of which the emoluments are paid from the city treasury, or by fees, directed to be paid by any ordinance or act of the Common Council, or be directly or indirectly interested in any contract, the expenses or consideration whereof are to be paid under any ordinance of the Common Council; but this section shall not be construed to deprive any Alderman or Assistant of any emoluments or fees which he is entitled to by virtue of his office.

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Mayor's veto method of proceeding, &c.

12. Every act, ordinance, or resolution, which shall have passed the two boards of the Common Council, before it shall take effect, shall be presented, duly certified, to the Mayor of the city, for his approbation. If he approve, he shall sign it; if not, he shall return it with his objections to the board in which it originated, within ten days thereafter; or if such board be not then in session, at its next stated meeting. The board to which it shall be returned, shall enter the objections at large on their journal, and cause the same to be published in one or more of the public newspapers of the city.

13. The board to which such act, ordinance, or resolution, have been so returned, shall after the expiration of not less than ten days thereafter, proceed to reconsider the same. If after such reconsideration, a majority of the members elected to the board shall agree to pass the same, it shall be sent, together with the objections, to the other board, by which it shall be likewise re-considered; and if approved by a majority of all the members elected to such board, it shall take effect as an act or law of the Corporation. In all such cases the votes of both boards shall be determined by yeas and nays, and the names of the persons voting for and against the passage of the measure re-considered, shall be entered on the journal of each board respectively.

14. If the Mayor shall not return any act, ordinance, or resolution so presented to him, within the time above limited for that purpose, it shall take effect in the same manner as if he had signed it.

Prohibition of the Mayor and Recorder.

15. Neither the Mayor nor Recorder, of the city of New-York, shall be a member of the Common Council thereof, after the second Tuesday of May, one thousand eight hundred and thirty-one.

When the President of the

16. Whenever there shall be a vacancy in the office of Mayor, and whenever the Mayor shall be absent

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from the city, or be prevented by sickness, or any other cause, from attending to the duties of his office, the President of the board of Aldermen shall act as Mayor and shall possess all the rights and powers of the Mayor, during the continuance of such vacancy, absence, or disability. Board shall act as Mayor.

17. It shall be the duty of the Mayor, Duty of the Mayor.

FIRST. To communicate to the Common Council, at least once a year, and oftener if he shall deem it expedient, a general statement of the situation and condition of the city, in relation to its government, finances, and improvements.

SECOND. To recommend to the adoption of the Common Council all such measures connected with the police, security, health, cleanliness, and ornament of the city, and the improvement of its government, and finances, as he shall deem expedient.

THIRD. To be vigilant and active in causing the laws and ordinances of the government of the city to be duly executed and enforced.

FOURTH. To exercise a constant supervision and controul over the conduct and acts of all subordinate officers, and to receive and examine into all such complaints as may be preferred against any of them for violation or neglect of duty, and generally to perform all such duties as may be prescribed to him by the charter and city ordinances, and the Laws of this State and the United States.

18. Annual and occasional appropriations shall be made by proper ordinances of the Common Council for every branch and object of city expenditure, nor shall any money be drawn from the city treasury except the same shall have been previously appropriated to the purpose for which it was drawn. Appropriation, when made.

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Borrowing money.

19. The Common Council shall not have authority to borrow any sums of money whatever on the credit of the Corporation, except in anticipation of the revenue of the year in which such loan shall be made, unless authorized by a special act of the legislature.

Publishing detailed statements of receipts & expenditures.

20. It shall be the duty of the Common Council to publish two months before the annual election of Charter Officers, in each year, for the general information of the citizens of New-York, a full and detailed statement of the receipts and expenditures of the Corporation, during the year, ending on the first day of the month in which such publication is made; and in every such statement the different sources of city revenue, and the amount received from each; the several appropriations made by the Common Council, the objects for which the same were made, and the amount of monies expended under each; the monies borrowed on the credit of the Corporation, the authority under which each loan was made, and the terms on which the same was obtained, shall be clearly and particularly specified.

Executive business.

21. The executive business of the Corporation of New-York, shall hereafter be performed by distinct departments, which it shall be the duty of the Common Council to organize and appoint for that purpose.

Accountability of officers.

22. It shall be the duty of the Common Council to provide for the accountability of all officers, and other persons to whom the receipt or expenditure of the funds of the city shall be entrusted, by requiring from them sufficient security for the performance of their duties or trust, which security shall be annually renewed; but the security first taken shall remain in force until new security shall be given.

Duties of the clerk of the board of Aldermen.

23. The Clerk of the board of Aldermen, shall, by virtue of his office, be Clerk of the Common Council, and shall perform all the duties heretofore performed

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by the Clerk of the Common Council, except such as shall be assigned to the Clerk of the board of Assistant Aldermen; and it shall be his duty to keep open for inspection, at all reasonable times, the records and minutes of the proceedings of the Common Council, except such as shall be specially ordered otherwise.

Division of the Common Council into two boards and their time of meeting.

24. The division of the Common Council into two boards, shall not take effect until the officers to be elected under this law enter on the duties of their office. Each board shall hold its first meeting, for the purpose of organizing, on the second Tuesday of May in each year, at which time the Mayor or Clerk of the Common Council shall attend, by whom the oath of office shall be administered to the members elected. In the absence of the Mayor and Clerk, such oath may be administered by the Recorder or First Judge of the city, or by any of the Justices of the Superior Court.

Provisions of this act when to apply.

25. None of the provisions of this act, except the eighteenth, nineteenth, twentieth, and twenty-second sections, shall be construed as applying to the Common Council as now constituted.

What parts of the charter not repealed.

26. Such parts of the Charter of the city of New-York, and of the several acts of the Legislature amending the same as are not inconsistent with the provisions of this law, shall not be construed as repealed, modified, or in any manner affected thereby; but shall continue and remain in full force. G.G.G.

G.G.G. Note LIII.

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NOTES

AND

ILLUSTRATIONS.

Note I. p. 5.—A.

The Charter of Governor Dongan in 1686, is recited at large in the charter of 1730. It is an interesting document, inasmuch as the grants which it makes, and the rights and privileges which it recognizes and confirms, were intended to be included in the latter charter, subject to such alterations, enlargements, and additions, as the latter contains.

The recital contained in the first Section of Lieut. Governor Dongan's Charter, speaks of New-York, as being then *an ancient city*, and body corporate, possessing divers lands, rights and franchises, as well by prescription, as by charters and grants; not only from the English, but from several Dutch Governors, while the province was under their jurisdiction. The recital was founded on historical facts, for a charter was granted to the City on the 2nd of February 1657, by the Dutch Government. But it was a very limited and imperfect grant. The most striking part of it was, the division of the inhabitants into "great and small citizens." The former included the members of the Government and their descendants in the male line, ministers of the Gospel, &c. The latter, all who "resided within the city during a year and six weeks, and kept their fire and lights." The original of this charter is on file in the Secretary's Office, and a copy is inserted at large in the journal of the City Convention of June 1829.

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Col. Nicoll, the first English Governor of New-York, also granted, in 1665, a charter of incorporation to the inhabitants under the administration of a Mayor, Aldermen, and Sheriff. The Dutch name of incorporation was that of Schout, Burgomasters, and Schephens, of the city of New-Amsterdam.

The charter of Dongan appears to be quite singular, when we consider, that at the date of it, under the arbitrary sway of King James 2nd, there was a general attack on the part of the Crown, of all chartered rights and privileges throughout the King's dominions. While Governor Dongan was granting liberal charters to New-York and Albany, and a free constitution to the province, his master was waging war upon the New-England charters. This marked partiality may be imputed in part to the personal character and influence of the Governor, who was a man of integrity and moderation, and in part to the partiality of the King for a province, of which, as Duke of York, he was the proprietary. Indeed, the civil privileges of the *town of Manhattans*, as New-York was then called, were essentially confirmed in the very liberal articles of capitulation granted to the Dutch by Col. Nicolls, on the first surrender of the colony to the English in 1664. The charter mentioned among other rights and property which this ancient city then possessed, the City Hall, two market houses, the wharves and docks with their appurtenances, a cemetery, and one settled and established ferry from the city to Long Island.

Note ii. p. 7.—B.

The general granting clause in the 2nd Section, was made by the Governor by virtue of his royal commission and upon the petition of the Corporation. It granted and confirmed to the Corporation of the city, all the

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rights and franchises which they *anciently* held and enjoyed; provided that none of them were "inconsistent with, or repugnant to the laws of England, or of the General Assembly of the province." It also confirmed to them their right and title to the City Hall and the ground belonging to it, the two market houses, the wharves and dock, burial place, and the Long-Island ferry, with its rents and profits.

A grant was likewise made of all the existing streets, lanes, highways, and alleys within the city, for the use of the Corporation and inhabitants; and with power to the Corporation to establish, make, lay out, amend, and repair all streets, highways, alleys, lanes, water courses, ferry and bridges in and throughout the city, necessary and convenient for the inhabitants. The grant was accompanied with the proviso, not to take away any person's right of property, without his consent, *or by some known law of the province.* The restriction on the laying out of new streets and highways, if laid out over private property, without the consent of the owner, or without some known law, was a provision that did honor to the character of the charter. Private property must, however, be subservient to public necessities, and the Legislature have the right, even against the owner's consent, to assume private property for necessary public uses, on making just compensation. A law of the province would probably have been deemed of itself, sufficient at that day, but the security of private right has been greatly increased, and the value of that security highly exalted since that period. "A known law of the Province" would not now be sufficient, without something more. The language of the Constitution is, that "private property cannot be taken for public use without just compensation."

The corporate power for regulating buildings, streets, lanes, wharves, docks and alleys, was enforced and en-

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larged by the Colony act of October 1, 1691, Ch. 18, which authorized the Common Council to appoint a Surveyor to regulate the same under their orders. If private ground was taken for streets, reasonable compensation was to be fairly assessed and paid to the owners. This was a noble provision and much better than the check on corporate authority, contained in the charter. The charter power on the subject of streets and highways, was continued and confirmed by the charter of 1730, as see *post*, Sec. 16, and note H. H.

NOTE III. P. 8.—C.

The grant in the 3rd section to the Corporation, of all the waste, unpatented and unappropriated lands within the city and on Manhatten Island, extending to low water mark, together with all rivers, rivulets, coves, creeks, ponds, waters and water courses, in the City and Island, not before granted, was, doubtless, a valid grant; and the rights of property thereby acquired, could never thereafter have been lawfully devested without the consent and act of the Corporation, or due process of law.

It may not be amiss to state here, once for all, that it is an acknowledged and settled principle, that no vested right of property, whether it belongs to private individuals, or be in the shape of a corporate franchise, can ever be lawfully taken away without some default or forfeiture, to be ascertained upon a fair trial and pronounced by judicial decree. The English statute of *Magna Charta* established as a great principle, the sanctity of rights and privileges, then existing or thereafter to be lawfully procured; and that principle was intended to be of general and perpetual application. It provided that the city of London and *all other cities* should have all their liberties and free

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customs; and that no *freeman* should be disseized of his freehold, or liberties, or free customs, but by lawful judgment of his peers or by the law of the land. Corporate franchises in this country rest on a basis which ought to be at least as solid as *Magna Charta*, for they are founded on grants which are *contracts*, and "no state," says the constitution of the United States, "can pass any law impairing the obligation of contracts."

The Section contains also a grant of the "Royalties of fishing, fowling, hunting, hawking, &c. appertaining to the city and island." But I apprehend that the royal franchise of the chase and game was never practically applied to the colonies, and was never introduced. The right to take and appropriate all unreclaimed animals *ferœ naturœ*, belongs to every man of common right, and exclusively, upon his own soil, and to every member of the community as a common right in the public unpatented domains, except in those special cases in which the right is restrained by positive law. Statutes have frequently been passed from the early colonial history down to this day, prohibiting the killing of certain species of game, in certain seasons of the year, or the obstructing of the course of fish, or taking or destroying of fish, in certain waters, in certain seasons. (N. Y. Revised Statutes, vol. I. 687-689.) The statute prohibitions go to prevent the destruction of game by a man on his own land. The Act of April 21, 1818, ch. 253, and the *Revised Statutes*, vol. I. 702, prohibit the killing of certain game on this Manhattan Island or city and county of New-York, in certain seasons of the year. These are benevolent regulations, intended for the preservation and growth of migratory game, to be finally applied to the use and benefit of all classes of the people, who have a common interest in their protection and nurture. The corpora-

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tion by their citizens would have had the right to take game, even without the special grant in the charter of the "Royalties," in the waste and unpatented lands so granted, subject, however, to the restraints of the by-laws of the corporation, so long as they retained their property in the lands, and subject also to all statute prohibitions for the better preservation of game. There is no pretext for any claim, by any persons whomsoever, to enter and take game upon another man's land without his consent. It would at all times be a palpable trespass.

The grant of the vacant lands is simply to the Mayor, Aldermen and Commonalty, whereas, the grant of the royalties is to them and *their successors forever*. But there is no ground for any distinction in the case; a grant to a corporation aggregate is a good grant in fee, without adding the words "and to their successors forever." Every grant to such a corporation will last as long as the corporation endures, unless the subject of it be in the meantime, aliened or forfeited. The grant in the charter includes all *rivers* as well as rivulets and water-courses on the island. This must have arisen from the redundancy of description usual in such instruments; for though the streams or rivulets on the island were probably much more copious when the island was covered with woods than they are at present, it could not have afforded nourishment for rivers, properly so called, at any period since the flood.

The reservation of the annual quit rent of one beaver skin, or the value thereof in money, was expressly confirmed in and by the charter of 1730. See Sec. 38 and Note D. D. D.

NOTE IV. P. 9.—D.

This section declares that the limits and jurisdiction

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of the city shall extend to low-water-mark in and throughout the Island of Manhattan; and that the corporation shall quietly hold and enjoy all their rights and franchises before granted and confirmed, without let or hindrance on the part of the government.

The limits and jurisdiction of the city were more amply defined in the charter of 1730, as see infra. sec. 2. of that charter.

NOTE V. P. 10.—E.

This fifth section designates the city officers, but though the title and character of the officers have been generally retained, others have been added, and the whole made subject to a new organization, as will be seen hereafter. This section has, therefore, been essentially superseded.

NOTE VI. P. 11.—F.

The sixth section contains the usual words of incorporation of the city, and gives it a name, and the corporate capacity of perpetual succession, and to purchase, hold, sell, give, and demise in their discretion lands and chattels of any kind, and to sue and be sued, and to have, make and alter a common seal.

All these powers and capacities were re-granted in and by the charter of 1730, sec. 1, and they remain undiminished, except that by a subsequent section of Dongan's charter, sec. 12, the yearly value of the lands which the corporation could take and hold was limited to £1000 per annum, and which, by the charter of 1730, sec. 96, was enlarged to £3000 per annum. See my observations on this limitation in the note annexed to sec. 96, and designated as B. B. B.

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Note vii. p. 14.—G.

The officers under this charter were appointed by name, and the section creates and defines the composition of the Common Council of the city, and its power to make, enforce and repeal laws and ordinances for the rule and government of the city, and with the cautious proviso that those laws and ordinances should remain in force for three months only, unless confirmed by the Governor and Council.

The whole of this section has become obsolete, being superseded by new and more enlarged provisions in the charter of 1730, as see section 14, of that charter, and the note F. F.

Note viii. p. 16.—H.

The eighth section provided among other things, that the Mayor and Sheriff should be annually appointed upon the feast day of St. Michael. That day for the appointment of charter officers was continued until the year 1800, as see infra. note B. B. The Recorder, Town Clerk and Clerk of the Market were otherwise appointed, but the whole arrangement has been done away by new and different provisions. This will be noticed hereafter. The provision that the Mayor or Recorder and any two Aldermen might, as justices of the peace, hold general sessions of the peace to hear and determine and punish misdemeanors and offences under the degree of grand larceny, remains in some respects, though it has undergone essential alterations, as will be seen hereafter, in note R. R., and the whole section may be passed over as wholly superseded.

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NOTE IX. P. 18.—I.

The provision in the ninth section was for the election of Aldermen and Constables annually, and for the due commitment of offenders by the Mayor, Recorder and Aldermen as trustees of the peace.

This section has also become useless and obsolete by new and more specific regulations, which cover and change the whole subject.

NOTE X. P. 19.—K.

The tenth section of Governor Dongan's charter gave to the Mayor, (and it was declared to be according to usage and custom) the right to grant tavern licenses, and for selling by retail all sorts of exciseable or strong liquors, and the license fees were declared to be for the use of the corporation. This provision was adopted and confirmed in and by the charter of 1730, as see sect. 25, and note Q. Q., where the subsequent modifications of the power are noted.

NOTE XI. P. 21.—L.

The Eleventh Section authorized the Mayor, Recorder and Aldermen, or the Mayor and any three Aldermen, to make free citizens of the city, on their paying for the use of the Corporation, a pecuniary compensation not exceeding £5. The same power was conferred by the charter of 1730. See Infra. Sec. 20, 21 and my observations upon it, in Note M. M.

NOTE XII. P. 21.—M.

The general capacity of the Corporation to purchase and hold lands in fee, had been already confirmed by

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the 6th Section of this charter, as see *ante*, p. 10. Here that capacity is more explicitly defined, and it is restricted in amount to lands, whereof the yearly value should not exceed £1000 per annum. The sum was enlarged by the charter of 1730, to £3000 ster. per annum, as see *Post.* Sec. 36, and note B. B. B. The same lands the Corporation are authorized to demise, grant and dispose of at their pleasure. The power and right of unlimited purchase and sale of all property, real and personal, is incident to all corporations, vested with the usual general capacities, unless the power be restricted and defined by the charter, or by statute.

The general power to take and possess lands excluded of course, acquisition by devise or will, for all corporate bodies were incapacitated from being devisees by the statute of wills of 32, Hen. 8, and that restriction has been continued in every revision of our statute code

NOTE XIII. P. 22.—N.

The 13th Section authorized the corporation to hold three market days in every week of the year. This power was enlarged by the charter of 1730, as see *Post.* Sec. 17 of that charter. Note XXXII.

NOTE XIV. P. 22.—O.

In this Section there was a plain grant of power to the corporation, to fill, make up and lay out the lands in and about the city and island, and to build up and use the same in any way or manner, which to them should seem expedient, and as far into the rivers as low water mark.

This power would have been implied from the circumstance that the corporation was seized in fee of the

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lands to which the authority applied, and which was held by them in their public corporate capacity as trustee for the inhabitants. The provision must have been inserted for greater caution, and it may be considered as absorbed in the more ample powers conferred by the charter of 1730.

NOTE XV. P. 23.—P.

This Section gave to the Mayor, Recorder and Aldermen, or to any three of them, whereof the Mayor or Recorder was to be one, the power to hold courts of Common Pleas, for personal and mixed actions on every Tuesday of every month in the year. The authority was confirmed and enlarged by the charter of 1730, as see *Post.* Sec. 27, and note XLI. S. S., and this Section may be considered as entirely superseded.

NOTE XVI. P. 24.—Q.

We have in this 16th Section, a confirmation to the corporation, of all the privileges, franchises, and powers, not inconsistent with the law of the land, which they had enjoyed, or were entitled to within twenty years preceding, under any former charter, grant, prescription, custom or usage. The retrospect carried the grant back to the year 1666, soon after the capitulation of the city and province by the Dutch Governor, to the English arms. It covered, of course, all the rights and privileges secured to the city by the liberal terms of the capitulation in 1664, and by the charter of Col. Nicolls, in 1665. It saved, however, to the crown and its officers, certain lands, and among others, the Governor's garden by the gate of the Fort, and the King's farm and the swamp next to the fresh water, and the quit rents

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reserved in former grants. All these grants and reservations became merged to the subsequent charter, and in the more specific and better defined rights and powers which it contained.

Note xvii. p. 24.—R.

The last clause in Lieut. Governor Dongan's charter, saves all grants of lands and chattels before made for pious and charitable uses. What grants of the kind were alluded to, does not appear; but whatever they were, they were confirmed, whether in the hands of the corporation, or of any of the citizens.

In reviewing this charter, we have perceived many things in it, denoting a wise and liberal policy. It may be said to have laid the basis of a plan of government for a great city. Its broad foundations have been built upon, enlarged and improved, the better to meet with success, the exigencies of the most commercial metropolis on this side of the atlantic. When we consider the time when, and the power from whom this charter emanated, we cannot but admire the enlightened sense which it displays, of the sanctity of corporate and private rights, the cautious manner with which they are treated, and the provident guards enacted for their security.

Note xviii. p. 31.—S.

Charter of 1708.—This charter was granted by Governor Cornbury, for a special purpose. It was made upon the petition of the Corporation of New-York, in which they set forth their vested right, under former grants and charters, in and to a certain Ferry between the city and Long Island, called *the Old Ferry;* and they prayed for a confirmation of it, to-

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gether with all the vacant and unappropriated land between high and low water mark on Long Island, between the Wallabout and New-York.

The charter followed the petition, and conformed to it entirely. It granted to the corporation the Old Ferry on both sides of the East river, as the same was then held and enjoyed, together with the fees, rents, and profits thereof, and all the vacant and unappropriated ground on Long Island, between high and low water mark, fronting the city of New-York, from the east side of the Wallabout to the west side of the Red Hook. The charter has much of the form and language of an ordinary conveyance in fee, and the franchises and lands were to be held in free and common soccage, as of the manor of East Greenwich, in England, and under a quit-rent of five shillings per annum.

It likewise granted to the corporation, and their successors, leave and license to set up, establish, and maintain one or more ferry or ferries, as the corporation should from time to time see fit, within the limits and bounds aforesaid, for transporting passengers and chattels between New-York and Long Island, under such reasonable rates as have been usually received, or may be established, with the consent of the Governor and Council; and with power to make and change, in their discretion, by-laws for the more orderly keeping and maintaining the ferry already established, or any ferry or ferries which might thereafter be set up within the bounds aforesaid, so as the same be not contrary to law.

This ample grant of the old ferry, and this right to establish new ferries between the city and Long Island, and of the shore between Wallabout and Red Hook, on Long Island, were renewed in the charter of 1730, as see *Post*, sections 15 and 37, and see Note

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XXX, G.G., for observations on the ferry rights of the corporation. The grant of the shore on Long Island, between high and low water mark, and between Wallabout and Red Hook, is confirmed, and is an indefeasible grant in fee of property existing in full force to this day.

Note xix. p. 37.—T.

Charter of 1730.—This is the charter upon the foundation of which the city of New-York is at present governed. The two prior charters of 1686 and 1708, may be considered as merged in this. They are recited at large in it, and all the grants and franchises contained in them are repeated and confirmed and enlarged, with the addition of other powers, rights, and privileges. This last charter is entitled to our respect and attachment, for its venerable age, and the numerous blessings and great commercial prosperity which have accompanied the due exercise of its powers. It has withstood the shock of the American Revolution, which for a time suspended its functions, and it was confirmed by the Constitution of 1777, and again by the Constitution of 1821. It remains to this day with much of its original form and spirit, after having received by statute such modifications, and such a thorough enlargement in its legislative, judicial, and executive branches, as were best adapted to the genius and wants of the people, and to the astonishing growth and still rapidly increasing wealth and magnitude of the city.

The recital, in the charter of 1730, admits that the inhabitants of New-York, as a corporate body, had anciently held, or claimed to hold, sundry lands, rights, privileges, franchises, and powers, as well by prescription as by grant, and not specified in the preceding

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charters; and that the corporation had by petition prayed for a grant of confirmation of all their rights and privileges so held and enjoyed; and also, for a grant of the soil 400 feet beyond low water mark, on the Hudson river, from a certain creek or kill, southward to the fort, and the same number of feet round the fort, and so along the East river as far as the north side of Corlaer's Hook; and also for a grant of other needful powers and privileges.

The 1st section accordingly ordains that the city of New-York shall remain a free city, and be one body corporate and politic, by the name of the *Mayor, Aldermen, and Commonalty of the city of New-York*, with perpetual succession, and the capacity to sue and be sued, and to purchase, take, and hold real and personal estate of every kind, description, and extent, and with power to demise, assign, and sell the same at pleasure, and to have and change at pleasure a common seal.

Note xx. p. 42.—U.

The 2d section describes the extent of the city and its division into wards.

The boundary line begins at the mouth of *Spuyten Duyvel* creek, on the Westchester side thereof at low water mark, and runs on the Westchester side at low water mark, to the East river, which it crosses, to Long Island, to low water mark there, including Great Barn island, Little Barn island, and Manning's island; and from thence along Nassau Island shore at low water mark, to the south side of the Red Hook; and from thence across the North river, so as to include Nutten island, Bedlow's island, Bucking island, and the Oyster island, to low water mark on the west side of the North river, *or so far as the limits of the*

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province extends, and so to run up along the west side of the river, at low water mark, *or along the limits of the province*, until it comes opposite to the creek aforesaid, and thence to the place of beginning.

Every revision of our statute laws contained this same boundary line, as the limits and jurisdiction of the city, and with the same reservation as to the west bounds on the Hudson river, and leaving the west bounds of the state along the city line in uncertainty. But the vexed and litigated point concerning the boundary line between this state and New-Jersey was happily settled by commissioners mutually appointed by each state, in 1833. The boundary line as now established between the two states, from a point in the middle of Hudson's river, opposite the point on the west side thereof, in the 41st degree of north latitude to the main sea is, so far as concerns the city of New-York, the middle of the said river and of the bay of New-York. But this state and consequently this city retains its jurisdiction over Bedlow and Ellis's Islands; and the state and this city to the extent of its chartered rights, have exclusive jurisdiction over all the waters of the bay of New-York, and over all the waters of Hudson's river lying west of Manhattan Island, and to the south of the mouth of *Spuyten Duyvel* creek, and of and over the lands covered by the said waters, to the low water mark on the westerly or New-Jersey side thereof, subject nevertheless to the following exceptions, viz: the state of New-Jersey has the exclusive right of property in and to the land under water, lying west of the middle of the Bay of New-York, and west of the middle of that part of Hudson river which lies between Manhattan Island and New-Jersey. She has also the exclusive jurisdiction of and over the wharves, docks and improvements made or to be made on the shore of New-Jersey, and of

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and over all vessels aground on said shore, or fastened to any such wharf or dock, except that such vessels are to be subject to the quarantine or health laws of the state of New-York, and laws now or hereafter made in relation to passengers. New-Jersey has also the exclusive right of regulating the fisheries on the westerly side of the middle of the said waters, provided that the navigation be not obstructed or hindered. See the Act of this State, of Feb. 5th 1834, ch. 8.

The residue of this second section consists of the division of the city into seven wards, with their boundaries specified. This division has been superseded by new boundaries and new wards adapted to the increase of the city. Thus in 1791 the boundaries of the wards were altered, so as to correct the inequalities, and apportion the extent of the wards to the population. In 1803 the boundaries of the wards were re-modified, and the wards were increased to nine. This increase of the wards, and consequently of the number of Aldermen and Assistants, was a material alteration in the chartered organization of the Common Council, and it was done without their application or consent. It became therefore a question in the Council of Revision whether the alteration, without such assent, ought to be made. But the objection raised and reported by one of the members of the Council, was overruled, and the bill passed without any, and became a precedent for future alterations of the like kind. In 1808 the wards were increased to ten. In 1817 the Legislature were again under the necessity of equalizing the wards without increasing them. In 1825 the wards were increased to twelve; in 1827 to fourteen, and in 1832 to fifteen wards,—the number into which the city is at present divided.

NOTE XXI. P. 43.—X.

The third Section directs that there shall be forever

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thereafter one Mayor, one Recorder, seven Aldermen, seven Assistants, one Sheriff, one Coroner, one Common Clerk, one Chamberlain, one High-Constable, sixteen Assessors, seven Collectors, sixteen Constables, and one Marshal ; and with authority to the Mayor, to appoint one of the Aldermen his deputy to act in his stead, during his sickness or absence, or in case of his death until a new Mayor shall have been duly appointed.

This Section remains in force as to the designation of the officers, and with such an increase in the number of Aldermen, Assistants and other city officers as was required by the increase of the wards and of the population. The authority given to the Mayor to appoint a deputy is superseded by the provision in the act of 7th April, 1830, ch. 122, amending the charter. See next Section, and see also *post*, Note XXV. B.B.

NOTE XXII. P. 44.—Y.

This Section related entirely to the Deputy Mayor, and it authorised him to do the duties appertaining to the office of Mayor, to all intents and purposes, while acting as deputy.

The amended charter (Act of April 7th, 1830, ch. 122. Sec. 16.) in like manner supersedes this provision, by vesting the President of the Board of Aldermen with all the right and power of the Mayor, during the continuance of a vacancy in the office of Mayor, or during his absence or inability.

NOTE XXIII. P. 44.—Z.

This Section respecting the appointment of Recorder, and the tenure of his office is entirely superseded by subsequent alterations of the charter. By the con-

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stitution of the state as amended in 1821, (Art. 4, Sec. 7) the Recorder is appointed upon the nomination of the Governor, and with the consent of the Senate. He holds his office (*Ibid.* Art. 5, Sec. 6.) for five years, but may be removed by the Senate on the recommendation of the Governor for causes to be stated by him. By the act of the Legislature of the 7th of April, 1830, ch. 122, amending the constitution, he is no longer a member of the Common Council; and by the act of Feb. 27th, 1821, ch. 72, establishing a Court of Common Pleas in the city, and providing for the appointment of a first Judge of the court, the Recorder is a member of that court, but it is made his special duty to hold the Court of General Sessions of the Peace. He was made a salary officer, with a salary, to be paid quarter-yearly by the corporation, not less than $1500, nor more than $2,500 per annum in the discretion of the Common Council.

NOTE XXIV. P. 47.—A. A.

The 6th, 7th, 8th and 9th Sections of the charter were mostly temporary in their provisions, and soon ceased to operate.

The provision in the 9th Section, directing all Sheriffs thereafter to be appointed, to give bond with sureties in at least £1000, for the due execution of the office, was superseded by subsequent laws. As the law now stands (*Revised Statutes*, Vol. 1, 378) every sheriff, within twenty days after notice of his election, must give a bond to the people of this state with two sureties, who shall be freeholders, in $20,000, for the faithful execution of his trust. Though chosen for three years, under the direction of the constitution, his security is, by the statute, to be annually renewed, and the amended constitution authorised laws for such re-

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newed security to be passed. (Const. Art. 4, Sec. 8.)

NOTE XXV. P. 50.—B. B.

The 10th Section of the charter has undergone great alterations.

It provided that the Governor with the advice of the Council of the province, should appoint annually on the feast day of St. Michael, the Mayor, Sheriff and Coroner of the city. That mode of appointment continued until the Revolution, when the power of appointing those officers was, by the constitution of 1777, vested in the Governor and Council of Appointment, and was to continue there until otherwise directed by the Legislature. The power remained in the Council until the amended constitution of 1821, when the Mayor was directed to be appointed annually by the Common Council, and the Sheriff and Coroner, as well as the Register and Clerk of the city, to be chosen triennially by the electors in the city. (Const. Art. 4. Sec. 8. and see also R. S. Vol. 1. 112.) The Mayor continued to be appointed by the Common Council until the Act of March 3d, 1834, ch. 23, directed that he be annually elected by the electors of the city, qualified to vote for charter officers.

The Aldermen, Assistants, Assessors, Collectors and Constables were by the charter directed to be annually elected on the feast day of St. Michael (29th September) by the freemen of the city being inhabitants, and by the freeholders of each ward respectively, from among themselves. This provision continued until the act of March 21st, 1800, ch. 35, when the time for the election of charter officers was, on the petition of the corporation, changed from the 29th of September to the 3d Tuesday in November. The time for charter elections was again changed by the act of April 7th, 1830, ch.

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122, amending the charter, to the 2d Tuesday in April annually, where it still remains.

The act of 1800 confined the qualifications of electors to those prescribed by the charter; and to guard against abuse and fraud, the act required the freehold elector to have been one for a month next preceding the election; and the elector who voted as a freeman of the city, to have been admitted as such at least three months previously, and to have actually resided in the ward for which he voted, at least for one month before the day of election.

But further and essential inroads upon the charter were made by the act of April 5th 1804, chapter 62. Those officers who were to be appointed annually by the council of appointment on the charter day, might be appointed at any time during the session of the legislature in each year. The qualification of the electors, instead of being confined to freeholders and freemen under the charter, was enlarged so as to include every male citizen of 21 years of age and upwards, who should have resided in the city for the space of six months preceding the election, and rented a tenement of the yearly value of $25, and have paid taxes.

This act was passed without the application or consent of the Mayor, Aldermen, and Commonalty of the city, and it was objected to in and by the council of revision, but was passed notwithstanding their objection. The objection was drawn by the elder Governor Clinton, and supported by him and a majority of the council, on the ground that no strong public policy or necessity indicated the measure; and that it had been considered as a settled and salutary principle in the government, that charters of incorporation, containing grants and privileges, were not to be essentially affected without the consent of the parties, or without

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due process of law. In confirmation of the fact, many previous statutes since the revolution, relative to the corporations of the cities of New-York, Albany, and Hudson, were referred to, in which alterations in their charters had been made upon the application of the corporations, or with a saving of rights held by their charters.

The section now under review further directed that the Chamberlain and High Constable of the city, should be annually appointed by the Mayor and four or more Aldermen and Assistants in Common Council. The appointment of those officers remains in the Common Council, where the charter had placed it, and the Chamberlain is the County Treasurer, with the responsibilities attached to that office. (R. S. vol. 1, 370.) The provision in the charter that the Mayor, Sheriff, and all other officers, were to continue in office until other fit successors were respectively appointed and qualified, is now by law extended to all officers duly appointed, except the Chancellor, Judges of the Supreme Court, and Circuit Judges. (R. S. vol. 1, 117.) It was further provided by the charter that in case the Mayor, Sheriff, or Coroner, should die within the year, the Governor and Council of the province were to appoint a successor for the remainder of the year.

The mode of supplying vacancies under the charter was plain, but the present law on the subject does not appear to be in all respects sufficiently so.

As to the office of Mayor, the act of April 7th 1830, chapter 122, amending the charter, directed the President of the board of Aldermen to act as Mayor whenever there should be a vacancy in the office, or the Mayor should be absent from the city, or be prevented by sickness, or any other cause, from attending to the duties of the office. He was to act during the contin-

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uance of such vacancy, absence, or disability. There is no provision by law for a special election of a new Mayor within the year, in case of his death. The President of the board of Aldermen supplies his place for the residue of the year. Here is no difficulty.

As to the office of Sheriff, the act of April 24th, 1823, chapter 268, provided for a special election in the case of a vacancy in that office, as well as in that of Register or Clerk of the city, happening within the prescribed term of service. But all such special elections were done away by the *Revised Statutes*, unless the right of office of the person elected should cease before he commenced his service. (Vol. 1, 126, sec. 6, 8.) They declare that *all vacancies* in those offices were to be supplied at the next *general* election; and vacancies in the office of Clerk or Register, otherwise than by death, were to be supplied by the Governor, who is to appoint some fit person to execute the duties of the office, until the vacancy is supplied by an election. (R. S. vol. 1, 124, sec. 49.) There does not appear to be any specific provision for supplying the vacancy occurring by *death* in the office of Register or Clerk, until the next general election thereafter for the city officers. The statute (R. S. vol. 1, 379, sec. 72. Ibid. 380, sec. 78) provides that the under Sheriff shall supply the Sheriff's place whenever a *vacancy* in the office occurs. The vacancy here must mean by death or removal from office, but if the Sheriff be otherwise totally disabled to execute the office, the provision for the case does not seem to be explicit. There appears also to be a want of explicitness or provision for the case of the death of the Coroner. There is no provision for supplying a vacancy arising from that cause, prior to the next succeeding general election, unless in the rare occurrence that a vacancy proper to be supplied at a general election was not so

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supplied, and then there is to be a special election. (1. R. S. 128, sec. 9.) The act of April 12th, 1822, Sec. 4, followed the charter and directed only one Coroner to be elected in New-York; and by the *Revised Statutes* (vol. 1, 122) he is directed to be elected at the same *general* election as Sheriff, In the case of the absence or inability of the Coroner, any Alderman or special Justice may perform the duties of the office, during such absence or inability. (R. S. vol. 2, 743, sec. 9.) Still the occurrence of his death within the year, does not seem to be provided for.

NOTE XXVI. P. 52.—C. C.

The 11th Section provided for supplying vacancies happening within the period of the regular appointment or election, in the office of Alderman, Assistant, Collector, Constable, Chamberlain, and High Constable by a special election or appointment. The provision is supplied by new statute regulations. Thus by the act of the 7th of April, 1830, Ch. 122, a special election is to be ordered by the Board of Aldermen or Assistants as the case may be, for supplying within the year, the vacancy in the office of Alderman or Assistant, by death removal from the city, resignation or otherwise.

The act of April 8, 1813, Ch. 86, Sect. 13, provided that if any of the Aldermen *or other officers of the city*, chosen by the people, as charter officers, should refuse to serve, die, or remove out of the city before his time of service expires, and the office becomes vacant, the Common Council were to order a special election to supply the vacancy. The same provision was in the act of Feb. 23d, 1787, regulating the election of charter officers, and it applied specially to Aldermen, Assistants, Assessors, Collectors, and Constables.

There is no other provision that I am aware of, for

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supplying vacancies by death or otherwise, happening within the year in the office of Assessor, Collector, or Constable, but that contained in the act of 1813, and which has not been repealed, nor introduced into the Revised Statutes, and I presume it therefere remains in force. The charter made adequate provision for the case, and the act of 1813 may be considered as an affirmative or cumulative provision of more specific direction.

NOTE XXVII. P. 53.—D. D.

This Section imposed a penalty not exceeding £15, for the use of the Corporation, which might be assessed by the Common Council upon every person elected Alderman, Assistant, Assessor, Collector, or Constable, or appointed High Constable who should on due notice neglect or refuse to serve.

I have not seen any Statute abrogating this provision and I presume it remains in force. It is analagous to the policy of the law in respect to town officers throughout the state. Thus a fine of $62 50, was formerly imposed upon every Supervisor, Town Clerk, Assessor, Collector, Commissioner of highways, Overseer of the Poor, and Constable, who should refuse to serve in the office to which he was elected. (Act 27th of March, 1801, Ch. 78. Act March 19th, 1813, Ch. 35.) The fine reduced to $50 is still continued against the town officers, except the Collector and Constables, who are required to give security, which it might be inconvenient or impossible to be procured, and the fine for not serving is withdrawn. (R. S. Vol. 1. p. 346, 347.)

NOTE XXVIII. P. 54.—E. E.

The 13th Section provides for the case in which the

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election should fall on Sunday. This necessity arose from fixing on the 29th of September yearly, or the feast day of St. Michael the Archangel. The law now prevents any such difficulty, by naming as the day of election, another day in the week of the month designated.

NOTE XXIX. P. 56.—F. F.

The 14th Section relates to the Constitution and power of the Common Council, and it was materially altered by the Act of 7th April, 1830, Ch. 122, amending the charter.

Neither the Mayor or Recorder are any longer members of the Common Council, and instead of a single chamber, composed of the Aldermen and Assistants acting together, as one indivisible body, the Aldermen and Assistants meet in separate chambers, with equal rights and concurrent power, and no act, ordinance, or regulation can pass without the assent of each House or Board, nor until it has been presented to the Mayor and received his approbation, or returned with objections, and then reconsidered and passed in each Board by a majority of the members elected thereto. The Common Council as now organized, resembles in the order of its proceedings, and in the checks imposed, a regular legislative body; and considering the great interests confided to its care, and the large discretionary powers with which it is invested, it was fit and proper that its laws and ordinances should pass with similar deliberation and solemnity.

I apprehend that the general powers of the Common Council, as described in this Section of the charter, remain in full force. The amended charter of 1830, superseded certain other powers and checks, in respect to the borrowing and appropriation of monies, and the annual publication of detailed statements of receipts and

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expenditures, during the year preceding, and in respect to the establishment of distinct executive departments, and providing for the accountability of officers and persons entrusted with the city funds. The general power under the charter, was to make, ordain and establish, from time to time, laws and ordinances, such as to the Common Council should "seem to be good, useful or necessary for the good rule and government of the body corporate, and of all officers, inhabitants and residents of the city, within the limits thereof;" and for "the further public good, common profit, trade, and better government and rule of the said city;" and for governing and disposing of the corporate property, real and personal. These broad and latitudinary powers were given to be exercised with sound discretion, and with a liberal spirit commensurate with the growing wants and prosperity of a great commercial metropolis. The courts construe powers liberally, for such purposes. Thus in the case of the *Mayor and Aldermen of Memphis v. Wright*, in 6 Yerger, Rep. 497, when the town of Memphis, in Tennessee was laid off on the banks of the Mississippi, there was a public promenade set apart, and the corporation, under the authority in its charter, "to do all things necessary to be done by corporations," diverted the promenade to a different use, by converting it into wharves and landings for Steam Boats and Flat Boats; and it was held by the Supreme Court of Tennessee in 1834, that the corporation had authority to do so, and to enforce the regulation by penalties, and that the power was included in the words above quoted.

The Common Council were authorized also to ordain and enforce penalties for breaches of their laws and ordinances, and to collect the same by the summary process of warrant and distress and sale of the delinquents' goods, or by action of debt. The By-Laws were not to be repugnant to the statute or common law of the

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land, and they were to remain in force for a year and no longer, unless allowed of and confirmed by the governor and council, of the province. The counsel was abrogated by the revolution, and no substitute on this point provided. The By-Laws were therefore not deemed valid beyond the year, unless renewed by the Common Council, and it became the practice after the peace of 1783, for the Council annually to renew the By-Laws of the preceding year, in one entire collection with little or no alteration, and this practice continued until the statute of April 9, 1813, Ch. 86, Sect. 274, declared that all laws and ordinances of the Corporation might remain in full force for three years, unless sooner repealed by the Council, or originally limited to a shorter period.

The city code of ordinances was formerly distinguished for its brevity and paucity of regulations. But when we approach the present times, the code assumes a new character, in the number and diversity of its regulations, better adapted to the wants of the city, arising from the great increase of business, population, wealth and extent. Though the charter would seem to contain a grant of ample powers, sufficient for all the purposes of a well-ordered police, and for the good government of the city in its complicated concerns, yet the Legislature has been in the practice of granting more specific and detailed powers, sometimes upon the application of the Common Council, and more frequently without it. I do not here allude to those regulations respecting the exports and commerce of the city, in which the state at large has a general if not an equal interest, such, for instance, as those which relate to the inspection or regulation of *flour and meal, pot and pearl ashes, sole leather, hides and skins, lumber, culling of staves and heading, beef and pork, public health, fish, distilled spirits,*

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harbor master, and master and wardens of the port. In these and like cases the statute regulations have been numerous, cumulative, and subject to excessive mutations. These are more peculiarly matters of state or general concern. But I allude particularly to a series of statute regulations clearly within the powers of the charter, and on matters peculiarly belonging to the city, and the comfort and safety of the inhabitants. Such for instance are the laws regulating *the rate of ferriage* to and from Long-Island, concerning which a great many laws have been passed from 1717, when the colonial assembly first interfered, down to the last regulation of the 17th April 1822. These laws were passed as auxiliary to the corporation right of ferriage which was always recognised. Such also are the numerous statutes regulating the opening, laying out, and repairing of the *streets and highways and sewers* in the city. They were generally made in aid and confirmation of the general corporate powers on the subject, and sometimes with the avowed wish and consent of the corporation. Such are also the laws relating to *wharves, slips and wharfage*, and to the *alms house, bridewell, city prison and penitentiary, hackney coaches, butchers, gaming houses*, &c. In all these and in many cases of the like kind, the statutes act as auxiliary to the powers and duties of the Common Council, and confer upon them, precise and adequate authority. The act of January 23d, 1833, ch. 11, being one of the most recent, may be referred to particularly as containing a grant to the corporation of powers which were undoubtedly in most respects covered by the general powers contained in the section of the charter now under review. It authorises the punishment of persons intoxicated, or riding with undue speed in the city; and it authorises the Common Council to pass ordinances regulating the sale of arti-

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cles of food by hawkers and petty dealers, and the regulation of work-shops, and pawnbrokers, and victualling houses, and dirt carts, and the firing of arms, squibs, rockets, &c.

Amidst such a multitude of statute regulations, it becomes difficult to know how far an ordinance of the Common Council rests upon the authority of the charter, and how far upon the authority of some special statute. When the latter exists, the exercise of the power is of course to be referred to the statute as the more certain and paramount authority. The city ordinances sometimes act concurrently with and in aid of the statute power, though much more frequently the statute law comes in and carries out to a definite and precise extent, the authority which lies dormant in the comprehensive powers of the charter. If we take up and run through the ordinances of 1833, and now in force, we shall find many of them to be the exercise of charter powers simply; others are the exercise of charter and statute powers combined; and others again rest solely on the statute grant of authority. There is no doubt that when any of the ordinances alluded to cannot be referred to the grant and power by any express statute revision, the general and unlimited grant of ordinance power in this section of the charter is sufficient to uphold and warrant it. The efficient checks against any abuse of such enlarged discretion, are public opinion, the elective franchise, and the established principles of the constitution and of recognised common law. In addition to these checks, all corporations are liable to legal process in behalf of the state, for non-user or misuser of their rights and powers.

But to proceed with the 14th section of the charter,—the summary conviction and process of distress for the collection of penalties, was not abrogated by the con-

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stitution. That instrument only declared that trial by jury *as before used in the colony*, should be inviolate, and summary convictions for petty offences and misdemeanors were continued and sanctioned in many instances by statutes passed subsequent to the Revolution. Thus, for instance, by the statute of 4th May, 1784, for regulating highways, persons neglecting or refusing to work on the highways were liable to be fined promptly by the overseers of the highway, and to have the fine levied and collected by distress and sale of the delinquent's goods. The same summary process for collecting penalties was retained in the highway acts of 1801 and 1813, but with some mitigation in the latter act, by requiring the overseer not to assess the fine himself, but to make his complaint to a justice of the peace, and he was to do it on summons of the delinquent, and by summary conviction and distress warrant. The same power under the same mitigation is in the R. S. Vol. 1, 510. Summary convictions and warrants of distress were also prescribed by statute for breaches of the act to suppress immorality, and for the due observance of Sunday, and in and by the act for apprehending and punishing disorderly persons, and for assessments on regulating streets. (Acts of 9th Feb. 1788, and 9th April, 1813.)

But though the power to assess and levy fines summarily, be a power still dormant in the charter, it has long since grown into disuse, as not being quite congenial with the spirit of our institutions. The ordinance of May 1793, directed that all fines, penalties, and forfeitures, imposed in and by any of the laws of the corporation, should be recovered and levied by and in the name of the Chamberlain of the city. This would seem to have contemplated a recovery by regular suit at law, and the ordinance of 1834, chapter 48, puts an end to all summary process, for it directs that

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all fines, penalties, and forfeitures, imposed by any law or ordinance of the corporation, be sued for and recovered, with costs, in the name of the corporation, in any court having cognisance thereof.

The power conferred by the charter to disfranchise delinquents of the freedom and privileges of the city, instead of punishing them by fine and amerciament, is altogether abandoned. I presume there is no instance, at least since the revolution, of such a punishment inflicted by the corporation. The great constitutional principle is, that no man is to be disfranchised, unless by the law of the land, or the judgment of his peers. The further provision in this section, that the Common Council shall have the sole power of determining on all elections of corporate officers, is still valid; subject however to the qualification of that power by the act of April 7th 1830, chapter 122, which makes each board the sole judge of the qualifications of its own members.

NOTE XXX. P. 58.—G. G.

The 15th section authorizes the Common Council to fine members who are absent without reasonable cause. The act of 1830, amending the charter, supersedes this power, by conferring the same and larger powers for the same purpose, and with more efficient effect, on each board separately. It gives them the authority to compel the attendance of absent members, to punish members for disorderly behaviour, and to expel a member, with the concurrence of two-thirds of the members, elected to the board. In what way, and by what means, the board is to *compel* the attendance of absent members, and to *punish* them for disorderly behaviour, is not defined. I presume that each board may compel and punish by fine, and if the disorder

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be grievous, by imprisonment. The most efficient punishment is expulsion, and as that is the only one specifically stated, it is very appropriate when admonition fails to awaken in the breast of the offender a sense of duty and propriety. A delinquent may be brought in by an officer of the board, by compulsory process from it, in like manner as each House of Congress may compel the attendance of absent members, in such manner, and under such penalties, as each House may prescribe. (Act of April 7th, 1830, chap. 122, sec. 8.—See *Post*, p. 101.)

The residue of the section confers a very important power, right, and privilege, on the corporation, by authorizing the Common Council, with sole and exclusive power to establish as many ferries round Manhattan island, for transporting people, cattle, and goods, &c., to and from Nassau island, and from Manhattan island to any of the opposite shores all round the same, and in such and so many places as to the Council shall seem fit, and to let and dispose of all or any of the said ferries; and the rents, ferriages, and profits thereof, are fully and freely granted to the Mayor, Aldermen, and Commonalty of the said city, and their successors forever, to be taken, held, and enjoyed, to and for their own use.

This ferry grant is also mentioned and confirmed, as see *Post*, sec. 37. The section last referred to contains a grant and confirmation to the corporation, and their successors, forever, of the ferry and ferries on both sides of the East river, and of all other ferries then or thereafter to be created and established all round Manhattan island, and the management thereof, and all fees, ferriages, and perquisites, to the same belonging; and also all the ground and soil between high and low water mark, on Long Island, from the east side of the place called Wallabout, to the west

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side of Red Hook; and to make laws and rules for governing the ferries then established, or thereafter to be established round Manhattan island: saving to the inhabitants between Wallabout and Red Hook, the right of transporting themselves and their goods only in their own boats, from and to their respective dwellings and plantations without paying ferriage. The ferries then and thereafter to be established, and the right of ferriage, are connected with the grant and confirmation of lands within the city of New-York, and on Manhattan island, and they are all equally granted with the regular *Habendum* clause, appropriate to the grants of estates in fee.

The rights of the corporation in respect to the establishment, license, and regulation of ferries between the city of New-York and Long Island, has, within a recent period, been ably and zealously discussed, both in and out of the Common Council. It seemed to be conceded that the grant of the old ferry beetween New-York and Brooklyn, (and which was specially granted and confirmed by the charter of 1708, as see *ante*, p. 29, and Note S.) was an absolute grant of vested property, or an estate in fee, which could not be lawfully questioned or disturbed, except by due process of law. The colony act of 14th October, 1732, regulating the rates of ferriage, admitted that the corporation was "legally and solely seized" of the ferry. The same statute declared that the corporation might keep "one or more ferries" between the city and Nassau island, and that no other persons than the corporation of New-York, should erect and keep a ferry "between New-York and Nassau island." But the grant of a right to establish other ferries, and to appropriate the profits, was said to be the grant of a sovereign legislative power, of a public legislative character, and liable to be recalled at the pleasure of the legislature. I do not

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perceive that there is any solid ground for such a distinction on this point, between the grant of the old ferry with its rents and profits, and the grant of the right to establish other ferries, when needed, with their rents and profits. They are equally grants of corporate franchises, partaking of the nature of private property. They are made in the same terms, and in the same connexion with the grant of lands.

They confer on the inhabitants of New-York, vested and valuable interests arising from the rents and profits of every ferry established and to be established under the charter. Whether a new ferry in any given case be wanted, and whether it would be a burden or a benefit to the citizens, was intended to be and was properly left to the discretion of the Corporation, as all such grants must necessarily be left to be exercised according to sound discretion. The grant was founded on the two fold consideration, as a source of revenue to the city and an accommodation to the public; and in the latter view, the Corporation are amenable to the judicial tribunals for the abuse of their discretion, and the omission of a due exercise of the power. A corporate body is capable of taking the grant of a ferry, or of the right to establish one, and it is a freehold right and as much beyond the reach of a gratuitous legislative resumption, as any other franchise or property held by grant or charter. The ferry franchise is not the grant of political power, strictly speaking, any more than the grant of any other franchise or any other use of property. It certainly is not more so in respect to the right to establish new ferries, than the grant of the old ferry, and that is admitted to be an absolute irrevocable grant in fee. The grant of political power is exclusively a matter of public and general concern, but the ferriage grant was for the benefit of the grantees, and the rents, issues, and profits were given exclusively to the in-

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habitants of the city. The inhabitants in their aggregate corporate capacity, have as vested an interest in the entire grant of the old ferry, and of the right to establish others, as they have individually in any government grant of lands, tenements and hereditaments. Nor can such a grant be lawfully revoked, any more than the grant of any other hereditament, except for non-user or misuser, to be ascertained by a judicial proceeding. There is no danger that the power of establishing ferries in discretion, will be abused to the prejudice of the inhabitants of the city, or of its neighbors, considering the popular foundation of the council. Its sympathies with the feelings and judgment of its constituents must be lively, active and incessant. The power is more likely to be used to the best interests of the city, and with discretion and judgment, than if it was recalled and deposited elsewhere and exercised by any other body of men whatever; for it is to be presumed that the citizens of New-York, in matters that concern their local interests and convenience, are sufficiently sharp-sighted, liberal and persevering. The act of March 4th, 1814, Ch. 29, relative to the establishment of steam ferry boats on the old Brooklyn ferry, was passed upon the application of the Common Council, for the purpose of having the rates of ferriage increased, in order to encourage the establishment of steam ferry boats, and with power to prevent the interruption of them by ships or other vessels. This act does not, therefore, in any degree impair the previously vested right of the Corporation in the ferry, except so far as it was done by their own act and contract.

NOTE XXXI. P. 59.—H. H.

The 16th Section gave to the Common Council, power to establish, direct, lay out, alter, repair and

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amend streets, lanes, alleys, highways, water courses, and bridges throughout the city and island.

This is a grant of a public nature without any private interest or property or revenue connected with it, and it has always continued with the Common Council, under free and active exercise; subject nevertheless at all times to legislative interference and direction. The Legislature interferes with the power in their discretion, and I think there can be no question as to the right of the Legislature to do so, for the power is not exclusive in the Corporation, nor irrevocable, nor in the nature of the grant of private right. The Common Council exercise it consistently with legislative directions, and in other cases where the statute law is silent. The statute laws are not intended to alter or control, (except in the given cases) the charter on the point, but the object is generally to give additional, specific, and subsidiary relief, and the Corporation have frequently applied for legislative authority, and have preferred to exercise the power under that sanction, though the general terms of the charter gave it to them. Thus the colony acts of 7th, November 1741, Ch. 712, of November 25, 1751, of 4th May, 1754, of October 20th, 1764, and of March 9th, 1774, conferred powers or gave directions, in respect to the public roads on the island, and the city streets. So the act of March 21, 1787, Ch. 61, made the Common Council, Commissioners of high-ways, with ample powers; and the act of April 3, 1807, Ch. 115, prepared the way for the great avenues and regular cross streets, from the then settled parts of the city, to the northern parts of the island. The proceedings of the Commissioners appointed under that law, were upon a large and liberal scale, and their map and plan were made matter of record. That plan was declared by the statute, to be final and Conclusive, as well in respect to the corporation, as

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to individuals. It has nevertheless been occasionally altered in unessential parts, as in the instances afforded by the Acts of April 15th, 1814, Ch. 175, and of April 11th, 1815, Ch. 152, and of Jan. 23d, 1824, Ch. 10, and of April 25th, 1829, Ch. 269, and of April 23d, 1831, Ch. 253, and of April 5th, 1832, Ch. 89, and of April 10, 1832, Ch. 101, and of May 11th, 1835, Ch. 268.

The map and plan of the Commissioners, laid out the highways on the island upon so magnificent a scale, and with so bold a hand, and with such prophetic views, in respect to the future growth and extension of the city, that it will form an everlasting monument of the stability and wisdom of the measure.

The Acts of June 16th, 1812, Ch. 174, and of April 3rd, 1813, Ch. 86, conferred powers upon the Corporation, to make By-Laws relative to draining, pitching and paving the streets, and altering, amending and cleansing them, and relative to laying out and opening streets, avenues and squares. The Statute of April 9th, 1813, Ch. 86, Sect. 193—197, also declared, that the Common Council should continue to be Commissioners of highways, to regulate and keep them in repair, and this act is still in force. Under this general power, they are specially authorized to build bridges and causeways, and make ditches when necessary, through any person's land, and to appoint Overseers of the high ways, and to keep them in repair and to enforce penalties for the causing obstructions in the highway, and the Overseers are charged to remove nuisances and obstructions. The act of April 20th, 1818, Ch. 213, passed upon the application of the Common Council, authorized them to close streets, roads, lanes, and alleys, wherever they should judge proper, upon the terms and in the mode therein prescribed. So the Act of January 31st, 1817, Ch. 25, authorized the Common Council to make public cisterns in any of the

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streets, whenever they should deem it expedient; and the Act of April 9th, 1813, Ch. 86, Sec. 200, gave the Common Council the like power, as to wells and pumps to be made in any of the streets.

The statute powers have become so ample, so various, and so full of direction, that the charter power seems to be in a great measure, absorbed and lost in the new statute powers; but whenever and wherever the statute provisions do not supply precise and adequate authority in the given instance, the Common Council can always resort to the never failing powers under the charter, which gives broad and large authority, commensurate to every case. The charter powers have been so frequently and so fully confirmed, defined, enforced and specially applied, by legislative acts, that there seems to be no want of jurisdiction from the one source or the other, for every exigency; and the Common Council have, by ordinances now existing, created the Street Commissioner's department, and the department for cleaning streets with much detailed regulation. The *Revised Statutes*, Vol. 1, 526, relative to the highways, bridges, and ferries, save and except all the rights which the Corporation of New-York before enjoyed. The charter says nothing in particular, in the section before us, relative to rules for making and maintaining partition and other fences, and the Common Council might have resorted for that purpose, to the general power, to make By-Laws, as see *ante*, p. 54, and note F. F. But even this power is supplied by the act of March 27th, 1801, Ch. 78, Sec. 17, and the ordinance of 1833 for regulating fences and walls, is in pursuance of that authority.

NOTE XXXII. P. 59.—I. I.

This 17th Section relates solely to the power granted

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to the Corporation to establish and keep markets at five specified places, on every day in the week, except Sunday; and they were authorized also, to have, hold and keep such and so many other markets, at such and so many other times and places as they should think fit.

On this general authority, the power rests to this day. Though the charter would seem to be imperative as to the five specified places, yet the direction has been suffered to fall gradually into oblivion. Under the great change in localities which the growth and commerce of the city has produced, the adherence to the specification would have been idle and absurd. And notwithstanding the fulness and explicitness of the grant, legislative assistance have been occasionally afforded, and probably asked. Thus by the act of April 9th, 1813, Ch. 86, Sect. 272, the Common Council are authorized to pass ordinances, to regulate or prohibit the sale of goods, fruits, meats, &c. on Sunday; and to regulate the butchers, and assign the places for their business, and to prohibit any persons except licensed butchers, from carrying on their business. And by the act of March 22d, 1822, Ch. 101, the Corporation were empowered to cause public markets, if they should find it necessary, to be erected and kept over the waters of the East and North rivers, adjoining to any of their docks or wharves. Again by the act of April 25th, 1829, Ch. 267, they were also authorized to erect a public market and lay out and open a public street in the Eleventh Ward.

The ordinance of June 1833, contains a very full specification of the regulations, of which the authority contained in the charter was susceptible, and of which the wants, competition, trade and luxury of an immense population stood in need.

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NOTE XXXIII. P. 60.—K. K.

The grant in this Section is of the assize and essay of bread, wine, beer, ale, and all other victuals and things whatsoever, set to sale in the city, and with authority to amend and correct the assize, and to lay and levy fines and forfeitures concerning the same, to the use of the Corporation.

The power to assize or fix the weight, measure and price of articles sold in the market, remains unchanged, and it has been exercised in several particulars by the Common Council, to the present time. The object was, originally, to prevent extortion by means of a monopoly, as, for instance, on the part of the bakers, in the *science* of making bread; and it was continued to prevent frauds and imposition upon the ignorant and unwary in the sale of articles of the first necessity. The assize of bread was formerly, in the colony of New-York, extended to the weight and price of loaves, of the finest flour. Thus in 1768 the assize was regulated by the price of flour at 18-6 per cent. In 1771 at 22-9, and in 1773 at 24 per cent.

After the Revolution, the establishment of prices was dropped, but the ordinances of the Common Council for many years required the initials of the baker's name to be marked or stamped on every loaf of bread, and the bread was to be of good and wholesome flour or meal, and inspectors were appointed to examine the quality of the bread, and to see that the same was of due weight according to the assize. Now the ordinances only require that the bread be of good and wholesome flour or meal, and sold by averdupois weight, with penalties for breaches of the ordinance.

The ordinances no longer interfere with the prices and qualities of other necessaries in the market, but they regulate the sale of articles, and the modes of

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dealing in articles, where the trafic in them might easily lead to impositions not accessible to ordinary observation. Thus, for instance, there are ordinance regulations for pawnbrokers, dealers in second-hand articles, and keepers of junk shops, and for the sale of coal in respect to measure and weight, and for the sale of firewood, lime, hay, &c.

The ancient English statute of 51, Hen. 3d, in the year 1366, fixed the assize of bread and ale, and required the name of the owner to be marked on every loaf of bread. The baker was bound to see that his assize, weight and price of bread corresponded with the market price of wheat; and the brewers of ale and the vintners of wine were equally bound to see that their articles also bore the true relation to the quality and price in the market of barley and wine. These regulations would be evidence of a very civilized police, if it were not for the penalties subjoined, and which subjected bakers and brewers for repeated breaches of the assize, to disgraceful corporeal punishment. The statute was amended in 1709, as to the price and assize of bread, by the act of 9, Anne, ch. 18, and which was continued down to 1757. It prescribed a new table for the assize of bread, and which would seem to have been the precedent for the colonial ordinances of the corporation of this city on the subject. But owing to the increasing knowledge of the community in the science of political economy, and a sense of the folly of undertaking to regulate prices of marketable commodities, which, under free competition, in large trading cities, will naturally regulate their own value, the setting an assize as to price was gradually relinquished, and the statute of 55 Geo. 3. c. 99, finally abolished the practice in London. The assize is, however, continued, and regulated by law as to the ingredients to be used in making bread, and as to the sale by averdupois

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weight. Bakers may now sell in London and elsewhere, where an assize is not set, bread of such weight and size as they think fit, subject only to the statute regulations as to ingredients and weight; and this is the ground on which the New-York ordinances now stand.

The setting an assize as to wine, beer, ale, "and all other victuals and things whatsoever," though within the charter power, has been finally and wisely abandoned.

NOTE XXXIV. P. 61.—L. L.

The 19th Section conferred upon the corporation the office of gauger of all gaugeable liquors and vessels; and of measurer of salt, grain, and all measurable merchandises; and of surveyor and packer of bread, flour, beef, and all other provisions and merchandises to be surveyed or packed in the city; and the office of cartage and portage of all goods to be carted and carried in or through the city; and the garbling of all merchandises and things to be garbled, together with all the fees and perquisites arising therefrom.

These powers have been gradually assumed, encroached upon, or disturbed by statute regulations, and of which it will be proper to take some notice.

The act of April 14th, 1832, ch. 141, regulates the *measuring of grain* in this city, and directed the appointment of a Measurer General, and between ten and twenty measurers of grain. The act so far does away the corporate power in the charter, and declares that no persons, except those appointed under the act, should measure any grain in New-York for hire or reward. A question arose, and was decided in the Superior Court of the city, in the case of *Satterlee* v. *Sutton*, whether the statute provision was sufficient to destroy the char-

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ter power on that subject, and to supersede a measurer of grain appointed under the corporation. Ch. J. Jones, who delivered the opinion of the court, held, that the grant to the corporation to appoint measurers, was a grant of political power, coupled with no interest, save the fees as a compensation for measuring; and that the grant in question was not to be considered in the light of property, or intended as a source of revenue; and that the legislative act was valid, and the grant in the charter so far controlled.

If this be the true construction of the power of the legislature over the charter, the same rule would seem to apply to every other part of this section, for the whole rests upon the same principle. And indeed if the test of the inviolability of a charter franchise be the grant of some special pecuniary interest, or matter of private property in the grantee as an individual or aggregate corporate body, like the case of a grant of land, or of the emoluments of a ferry, then there are very few provisions in the charter that can stand the test, notwithstanding that the act of 1732, confirming the charter, declared that the corporation and their successors "should and might forever thereafter, peaceably have, hold, use and enjoy, all and every the rights, gifts, charters, grants, powers, liberties, privileges, franchises, customs, immunities, markets, duties, tolls, lands, &c. before granted by any letters patent or charter," and notwithstanding the Constitution saved the charter from the effects of the Revolution. It is not my intention, nor would it be proper in this place, if I had the inclination, to gainsay the decision in the case alluded to. My object is merely to show its general applicability. Most of the statute provisions in relation to New-York have been auxiliary to or in extension of charter powers, but the act referred to goes directly to destroy the corporate office of measurer of

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grain. It is therefore a strong case to show the dependence of charter franchises on legislative discretion, except in those cases in which the franchise is a matter of private interest.

The statute of March 31, 1818, ch. 70, for the appointment and regulation of gaugers and inspectors of fish oils, and the *Revised Statutes*, Vol. 1, 535 to 574 interfere largely with some of the powers contained in the section under review. They provide for the inspection of flour, meal, beef, pot and pearl ashes, fish, oil, lumber, staves and heading, flaxseed, sole leather, hops, distilled spirits, leaf tobacco; and for weighing and branding butter-firkins, and the packing and sale of pressed hay. The charter does not expressly grant any power to the corporation respecting weighmasters, and yet the Common Council, by ordinance in 1834, prescribe for the appointment, and they regulate the duties of *weighmasters* as well as of measurers of the city. This was in pursuance of the act of March 21st, 1800, ch. 35, which was passed upon the application of the Common Council, and the substance of the act was renewed April 9th, 1813, ch. 86, sec. 238. But the act of May 1st, 1835, ch. 183, withdrew this power in a very essential degree from the Common Council, for it provided that the Governor and Senate should appoint the Weigher General and the weighers of merchandise, and it declared that no persons, except those so appointed, should weigh any merchandise in New-York for hire, *except merchandise intended for the use or consumption of the city*. This act left the weighmasters appointed by the Common Council to exist, but with very reduced and subordinate powers, and they were bound to account monthly to the Weigher General, of the kinds of merchandise weighed, and the amount of fees received. The act does not apply to the weighers of anthracite or mineral coal.

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The office of *garbling* merchandize, I presume was done away with, at least essentially, by the act for the culling of staves and heading, and the office of *cartage and portage*, seems to be the only one mentioned in this section of the charter, which remains untouched by legislative regulations.

NOTE XXXV. P. 63.—M. M.

The 20th and 21st sections gave to the Mayor and four or more Aldermen, the power to make free citizens of the city, on payment of a fee not exceeding £5, to the use of the corporation. This was only a repetition of the power conferred by Governor Dongan's charter, as see *ante*, p. 19, and Note L.

The power contained in these two sections was formerly of momentous importance; for the charter, while it granted the power, at the same time prohibited all persons, other than such free citizens, to use any art, trade, mystery, or manual occupation, within the city, saving in the times of fairs; or to sell or expose to sale, any manner of merchandize or wares whatsoever, by retail, when no fair was at the time kept in the city, under a penalty for each offence. It was further provided that no person should be made free as aforesaid, but native born, or naturalized, or denizated subjects.

This chartered power has ceased to be of any importance, and is used only as a testimonial of respect or gratitude, on the part of the corporation, towards persons in high stations, or who may have entitled themselves to the honor by personal merit, or some distinguished service. There are instances in the annals of the corporation, of this species of reward. But the admission to the freedom of the city, was, at the date of the charter, not only a token of honor, but

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a grant of substantial benefit. By making a person a freeman of the city, he became entitled to all its municipal privileges; and among others, to the right of voting for, and of being voted to corporate offices, and which right belonged only to corporate freemen and to freeholders, until the charter was altered by statute, in 1804, as see *ante*, Note B. B.

But although the exclusive privileges formerly conferred on the inhabitants of chartered towns and cities, of pursuing commerce and exercising the mechanic arts, have fallen into discredit in Europe, among men of enlarged views and liberal policy, as being impolitic monopolies, which restrain competition, damp the spirit of enterprise, check the free circulation of labor, and raise the price of commodities; and although such monopolies are utterly reprobated and abandoned in this country, yet they were originally introduced in Europe, and afterwards cherished during the disorder and violence of the middle ages, as invaluable barriers against the insecurity and oppression of the feudal system. They were ardently desired, and frequently granted by the benevolence or policy of princes, during the 12th and 13th centuries, who confirmed local usages and enabled the inhabitants of towns and cities to possess common property, and to have their feudal Exactions either abolished or defined and limited, and to enjoy the inestimable privilege of being amenable only to their own municipal jurisdictions. Those incorporations conferred freedom on the feudal Serfs who escaped into them unless duly reclaimed. They were *cities of refuge* to the oppressed. This was the case in France and Germany, as well as in England. If a villain, says Glanville, b. 5, ch. 5, remained for a year and a day, in any privileged town, which had franchises by prescription or charter, he became thenceforward a free member of

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the corporation. Manumission, said lord Coke, (Co. Litt. 137, 6,) among other significations, meant "the incorporating of a man to be free of a company or body politic, as a freeman of a city, or burgess of a borough."

We are therefore not to be surprised that this ancient privilege (so tenacious is established usage) should continue to be cherished long after the occasion for it, and the reason of it had ceased: nor that it should have been inserted and continued by our ancestors in the early charters of New-York. There has been, until recently, something dear and sacred attached to the very mention of *chartered rights and privileges*. We perceive ample proofs of this sentiment and feeling in all the early proceedings of our revolutionary patriots and statesmen.

NOTE XXXVI. P. 63.—N. N.

The 22d section is only a specific detail of the powers granted to the corporation by the 19th section, as see *ante*, p. 60. It has therefore been in a very considerable degree abridged by successive acts of the legislature. We have seen, in the examination of the subject in note L. L., that the authority hereby given to appoint surveyors, measurers, gaugers, and garbles, has been superseded by legislative regulations incompatible with the exercise of the like power by the corporation. But the authority of the Common Council to appoint beadles, bellmen, watchmen, Bridewell-keepers, or keepers of houses of correction, and almshouses, cryers, and bell-ringers, has not been disturbed. The Common Council may appoint and dismiss, and add to and diminish, at pleasure, all such police agents.

The control and regulation of the city watch, like

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the appointment and regulation of cartmen and porters, is a very interesting and valuable deposit of municipal power, and one essential to the peace, security, and good government of the city. The same remarks apply to the regulation of the alms-house, penitentiary, city prison, and Bridewell, and the appointment of the keepers to them respectively. The ordinances on these subjects form a minute, well digested, and valuable code of alms-house and prison discipline.

NOTE XXXVII. P. 65.—O. O.

The 23d section authorized the corporation to erect and build one or more bridewells, houses of correction, and work-houses, for offenders, as well as an alms-house for the relief of the poor. It also authorized the Mayor, Recorder, and Aldermen, or any one of them, to arrest vagabonds, and idle and suspicious persons, and commit them to the work-house, for a term not exceeding forty days, or else to bridewell, to receive such punishment, not extending to life or limb, as they may direct. The corporation were further authorized to provide one or more gaols, and appoint the keepers, who were to receive all persons charged with crimes and offences and committed to their custody.

The powers in this section have been enlarged, modified, restricted, and better defined, by successive statutes. The Mayor, Recorder, and Aldermen, are *ex-officio* justices of the peace, and authorized to hold courts of general sessions of the peace, and courts of special sessions. (*Revised Statutes*, vol. 2, 216, 223.) Corporal punishment, otherwise than by imprisonment and at hard labor, is prohibited. (R. S. vol. 2, 697, sec. 40. *Ibid.* 701, sec. 16.) The act of March 2d, 1798, ch. 24, committed the charge of the bride-

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well, or gaol for criminals, to the corporation, and authorized the Common Council to appoint the keeper, and who was to hold at their pleasure.

The jurisdiction in criminal cases conferred by the charter, seems to have been completely absorbed and merged in statutory provisions. In attending to the historical progress of the changes, we perceive that by the colony act of 1st September, 1744, ch. 767, the Mayor, Recorder, and Aldermen, or any three of them, of which the Mayor or Recorder to be one, were authorized to try summarily, offenders under the degree of grand larceny, who did not give bail within 48 hours, to appear at the general sessions of the peace; and on conviction, to order corporal punishment at discretion, not extending to life or limb. The same power was given by the act of March 24, 1787, chap. 65, and by the act of 9th February, 1788, ch. 31. Disorderly persons were defined and described, and it was made lawful for any justice of the peace to convict them summarily, and commit them to bridewell, not exceeding sixty days. And by the act of February 6, 1789, ch. 19, the Mayor, Recorder, and Aldermen or any two of them, were authorized to punish disorderly persons summarily convicted before them, by imprisonment in the bridewell at hard labor, not exceeding six months. By the new penal code, in the act of March 26th 1796, ch. 30, corporal punishment, otherwise than by imprisonment and at hard labor, in cases not capital, was, for the first time in the history of our criminal law, abolished. The court of special sessions, consisting of the Mayor or Recorder, and any two Aldermen, with the jurisdiction to try summarily, petty crimes and misdemeanors under the degree of grand larceny, was continued by the act of March 24th 1801, ch. 70, and again by the revised act of April 9th, 1813, ch. 89. By the act of April 15th,

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1814, ch. 176, sec. 4, the Mayor, Recorder, and Aldermen, and the special justices, or any two of them, were empowered to convict and commit disorderly persons to the penitentiary at hard labor for six months. The *Revised Statutes*, vol. 1, 638, contained a formidable list adopted from the existing statutes, of persons described as *disorderly persons*, but they were to be dealt with less summarily than formerly. The justice before whom they were brought, was, upon evidence of the fact of their character, to require sureties for their good behaviour for a year, and in default thereof to commit them to gaol. The next court of general sessions of the peace was to take cognizance of the case, and in their discretion to discharge, or require sureties, or detain them in gaol at hard labor, for a term not exceeding six months, or for a term not exceeding thirty days, to be kept on bread and water only.

The act of January 23d, 1833, Ch. 11, defined the persons who should be deemed *vagrants*, with authority for the Mayor or Recorder, or one of the Aldermen or Special Justices, to convict them summarily and commit them in his discretion to the Alms House at hard labor, not exceeding five months, or to the penitentiary for a like period. This would appear to be the latest statute provision on the subject of the summary criminal jurisdiction, granted by the charter; and the review is sufficient to show, that the charter jurisdiction on the subject, has been long superseded.

NOTE XXXVIII. P. 66.—P. P.

The 24th Section makes the Mayor for the time being Clerk of the market and water bailiff, and conservator of the North and East rivers, and upon the banks, shores, and wharves thereof, with authority to take to

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his own use, the fees and perquisites thereof. He is also authorized to appoint and license at discretion, Marshals, Porters, Carriers, Cartmen, Carmen, Packers, Cullers, Common Cryers and Scavengers, and to add to and diminish them at pleasure.

The office of Clerk of the market, with all the fees and emoluments attached thereto, was taken from the Mayor and vested in the Common Council, by the Act of April 9th, 1813, Ch. 86, Sec. 168.

It is to be presumed that this act was passed with the consent of the Mayor, for a fixed salary was at the same time provided for him. As to the office of water bailiff, I am at a loss to discover the extent and use of that authority, and I find no statute ordinance regulation on the subject. I should presume it was not at this day of any efficacy, and that as a police power, it was absorbed in the powers of the Common Council, or in the Custom House duties, under the authority of the United States. There can be no fees or perquisites attached to it, for all such things are taken away by the act, providing a salary to the Mayor. The wharves, slips, and wharfage are all subjected to statute and ordinance regulation. The ordinance of 1833, Ch. 34, regulates the lying of vessels at the wharves, and in the slips belonging to the Corporation, and the rates of wharfage. Various statutes have successively regulated the wharfage and cranage in respect to the wharves which were private property. Such were the statutes of 17th April, 1784, Ch. 32.—April 6th, 1795, Ch. 44. —April 9th, 1813, Ch. 86, Sec. 212 to 236. This last act gave to the Common Council specific and large powers on the subject of wharves, piers, and slips, and with a general authority to make By-Laws and ordinances from time to time for regulating the same.

The original object of water-bailiffs in port towns in England, was to search ships, and in London the of-

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fice was once very vexatious, but it has now degenerated into one of a very subordinate and servile nature. The statute of 28, Hen. 6, c. 5, declared it to be a trespass for water-bailiffs and searchers, and their servants to levy charges and impositions upon the vessels and goods of merchants.

The authority given to the mayor to appoint marshals, cartmen, &c., remains in full force; except that by the act of April 8th, 1813, ch. 86, sec. 44, the number of marshals in the city was not to exceed sixty; and by the act of March 26th, 1832, ch. 58, they may be increased, so as not at any one time to exceed one hundred; and by the act of January 4th, 1820, ch. 1, the marshals who are to serve process of the justices court, or of the court of any assistant justice, are not to exceed thirty, and they are to be selected and commissioned by the mayor for that purpose. The cartmen, porters, &c. are under the constant supervision and regulation of the Common Council, and the ordinances of 1833, ch. 4, 8, 27 & 47, may be cited as examples. There is no power more salutary than this discretionary power in the mayor, and this power of regulation by the Common Council, of marshals and cartmen. There is none which requires the exercise of a more steady and firm purpose. The business and trade of the city, and the comfort and safety of the persons and property of all classes of citizens are deeply concerned in the good and responsible character of our marshals and numerous cartmen.

The authority given to the mayor to appoint *common cryers*, seems to be inconsistent with the like power given to the Common Council to appoint *cryers*. (See ante. p. 63.) If there be no known distinction between the two classes of citizens, and the power be concurrent in the mayor and in the Common Council, it is nevertheless too insignificant a power to produce in its exercise any unpleasant collision.

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NOTE XXXIX. P. 68.—Q. Q.

The 25th section gave to the mayor exclusively the power to grant, annually, licenses to keep taverns, inns and victualling houses, with liberty to sell exciseable or strong liquors. The fees on granting licenses were to be received for the use of the corporation, and penalties were prescribed for acting therein without such license.

The power was very early assumed by the legislature, and transferred from the mayor to other hands. The colonial act of July 15th, 1713, ch. 263, in derogation of the then charter power in the mayor, (as see ante. p. 18, sec. 10) authorised and required the mayor and aldermen of the city to farm out yearly, at auction to the highest bidder, the excise on strong liquors. But this mode was abandoned after the Revolution, and by the act of March 1st, 1788, ch. 48, a commissioner of excise was directed to be appointed in New-York with a salary, and the mayor was made *ex officio*, such commissioner, and he was to grant licenses in the manner prescribed by the charter, and to determine the amount of the excise to be paid annually, not exceeding £20, nor less than 40s. in any case. He was to retain £60 as a salary per annum in lieu of his fees, and to account for the residue to the chamberlain to be applied in part for the use of the New-York hospital, and the residue under the direction of the Common Council, towards the contingent expenses of the city. The act of April 7th, 1801, ch. 164, continued the law, but authorised the Council of appointment to appoint as commissioner of excise in New-York, not the mayor specifically, *but such person as they should think proper*, thereby leaving the Council of Appointment at liberty to select some other person than the mayor. Here was at least a complete demolition of the mayor's power under the charter. At last, by the act of April 10th, 1824, ch.

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215, the whole subject underwent a new modification, and on the application of the corporation, the mayor, aldermen and assistants were declared to be the sole commissioners of excise for the city. They were directed to collect the duty of excise from the venders of strong or spiritous liquors, and in their discretion to grant licenses to retail strong or spiritous liquors, or to keep an inn or tavern, public ordinary or victualling house within the city, and the monies arising therefrom were to be applied towards the support and maintenance of the city poor. The act was amended the succeeding year, by the act of April 16th, 1825, ch. 196, declaring that the mayor, and the alderman and assistant *of each ward* should be commissioners of excise for the wards respectively. A city ordinance on the basis of those statute revisions, and in furtherance of them, was passed in January, 1834, and so stands at present the law on the subject.

NOTE XL. P. 71.—R. R.

The 26th Section declares that the mayor, deputy mayor, recorder and aldermen shall be *ex officio* justices of the peace, and that any four of them, of whom the mayor or recorder to be one, shall hold Courts of General Sessions of the Peace, in February, May, August and November in every year, and with jurisdiction to inquire into, hear and determine, correct and punish crimes and misdemeanors, in like manner as justices of the peace, in their quarter sessions in England, might do. They were likewise declared to be justices of Oyer and Terminer and Gaol Delivery, and to be named in every commission thereof, and the sheriff and other officers of the city were required to execute their, and each of their warrants and commands.

The criminal jurisdiction of the mayor, recorder and

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aldermen, as justices of the peace, and their authority to hold courts, rested upon this provision in the charter, during the whole course of the colonial government. But since the Revolution a succession of statute regulations have entirely superseded this section of the charter, and new-modelled the courts, and enlarged their jurisdiction. The act of January 30th, 1787, ch. 8, first interfered and confirmed their power, by declaring that any three justices should hold sessions of the peace, and that the mayor, recorder and aldermen of New-York, (omitting the deputy mayor) should have all the powers of justices of the peace. The act of February 5th, 1787, ch. 10, established the Courts of General Sessions of the Peace, on the same quarterly days as fixed in the charter, but with a prolongation of the terms, and with the express grant of power to the mayor, recorder and aldermen, or any three of them, of whom the mayor or recorder to be one, to hold those courts in and for New-York. The act of February 22d, 1788, ch. 88, also clothed the mayor, recorder and aldermen with the authority of commissioners of Oyer and Terminer and Gaol Delivery, and with power to hold such courts, along with one of the justices of the Supreme Court. The acts of March 2d, 1798, ch. 24, and of the 21st of March, 1800, ch. 35, increased the number of terms of the courts of General Sessions of the Peace to six, and established a police office in the city with two justices and a clerk, to be appointed in the character of *special justices* to that duty. The act of January 23d, 1833, ch. 11, authorised the Common Council to appoint one or more clerks to that office. Until that period the aldermen in rotation or by arrangement among themselves, kept a daily police court as justices of the peace in the city hall. These special justices were invested with the powers of justices or conservators of the peace, but the mayor, recorder and aldermen might

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in their discretion be in the police office, and act therein as conservators of the peace. This establishment has been continued in the subsequent revisions of the laws. See the acts of April 9th, 1813, ch. 86, sec. 22—43, and of March 26th, 1832, ch. 58. By the last act these special justices are increased to four, and by the act of 1835, ch.151, to five; and the constitution of 1821 (art. 4, sec. 14.) provided that they should be appointed by the Common Council, and should hold their offices for four years, but liable to be removed by the county court for due cause.

According to the revised statutes, vol. 2, 216, 217, and the act of 1834, ch. 94, the first judge and the associate judge of the county courts in and for the city, and the mayor, recorder, and aldermen or any three of them, of whom the first judge, or associate judge, or mayor or recorder is to be one, are authorised to hold the Courts of General Sessions of the Peace, and it is made the special duty of the recorder to hold those courts, and the powers of the General Sessions are enlarged, so as to be enabled to hear and determine any indictment for any crime punishable by imprisonment for life, or for a shorter period. It is made the duty of two of the aldermen, when notified or required by the mayor or recorder, to attend as judges of the said court, and the courts are to be held on the first Monday in every month, and may continue for three weeks. These regulations and improvements were first made by the act of February 27th, 1821, ch. 72, on the application of the corporation.

By the same revised statutes, vol. 2, 204, 205, the Courts of Oyer and Terminer and Gaol Delivery, in the city, may be held concurrently with the Circuit Courts, by a judge of the Supreme Court, or a circuit judge, or the first judge of the Court of Common Pleas, together with the mayor, recorder and alder-

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men of the city, or with any two of them. Though the Governor, by and with the consent of the Senate, may issue commissions of Oyer and Terminer and Gaol Delivery, whenever the occasion shall require, yet no proceeding under the commission can be had without the presence of a justice of the Supreme Court or a circuit judge.

Upon these statute foundations, and not on this section of the charter, now rest all the powers originally conferred by the section under review.

NOTE XLI. P. 72.—S. S.

The 27th Section authorised the mayor, or his deputy, or the recorder, together with any three or more aldermen, to hold a court of record for the trial of civil causes, real, personal and mixed, arising within the city, upon every Tuesday in the year, and with all the powers requisite thereto.

This provision has become wholly superseded by affirmative, cumulative and new statute regulations, changing, in a considerable degree, the organization and character of the court.

The earliest interference with the *Mayor's Court* under the charter, was by the act of February 5th, 1787, ch. 10, which enlarged the terms of the court from one to three days, if necessary, and with declaring the power of the court to hear, try and determine all actions, real, personal and mixed, arising within the city, and with authority to the mayor, recorder and aldermen of the city, (omitting the deputy mayor) or any three of them, of whom the mayor or recorder to be one, to hold the Mayor's Courts. The power to try transitory actions, not arising within the city, was given by the act of April 5th, 1787, ch. 72. Then by the act of January 3d, 1797, ch. 1, on a representation by the corpo-

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ration, the charter was altered so as to allow the Mayor's Court to be held by the mayor or recorder without the presence of any aldermen, and the terms were enlarged to five days.

The Mayor's Court was early changed from a weekly to a monthly court, and by the act of February 17th, 1806, ch. 11, the terms were changed from the first to the third Monday of every month, with power to prolong each term to two weeks, if necessary.

The final settlement of the court was by the act of February 37th, 1821, ch. 72, and the provisions of which were incorporated in the revised statutes, vol. 2, 216, 217. That statute dropped the name of Mayor's Court, which had become quite inapplicable, and it declared that the court should be the *Court of Common Pleas or County Court* of the city and county of New-York. It was to have the same general jurisdiction as the Mayor's Court, and be held by the first judge of the same, who was created by the act for that purpose, and by the mayor, recorder and aldermen, or by the first judge, or the mayor or recorder alone, without the necessity of the attendance of any alderman. The evident policy of the act was to commit the charge and business of the court essentially to the first judge, and of the Sessions of the Peace to the recorder, so as to leave to the mayor the increasing, engrossing and responsible duties appertaining to the chief executive magistrate of the city. Since the revised statutes an associate judge has been created, with the like powers as the first judge, and whose duty it is equally to hold the said court. (Act of 1834, ch. 94.)

The 28th Section was nothing more than what followed of course, and as an indispensible part of the ordinary duty of the sheriff, coroner and other officers of the city, and which was to execute the precepts and process of the courts.

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NOTE XLII. P. 74.—T. T.

The 29th Section authorized the Corporation to have a common Clerk of the city, who was to be the Clerk of the Mayor's court, and Clerk of the peace and of the sessions of the peace, and to take and enjoy the fees and perquisites appertaining to the same. He was to be appointed by the Governor, and to hold during good behaviour, and the Common Council were authorized to supply vacancies until a successor was appointed.

The appointment of Clerk continued with the Governor until the revolution. But under the constitution of 1777, he was thereafter to be appointed by the council of appointment, and hold during its pleasure.

This single office of Clerk of the city, was subsequently broken up into fragments, and a large share of its complicated duties distributed among other clerical departments. Thus by the act of March 27th 1807, Ch. 75, passed on the petition of the Corporation, the Clerk of the city or common clerk was discharged from acting as Clerk of the Common Council, and they were authorized to appoint their own Clerk, and the provision was incorporated in the Digest of City Laws, passed April 9, 1813, Ch. 86, See 166, and by Sect. 159 of the Act last mentioned, the duty of the city or common Clerk, as to the registry of mortgages and recording of deeds, was transferred to the office of Register in and for the city, who was to be appointed by the Council of appointment. By the amended Constitution of 1821, Art. 4. Sec. 13, the Clerk of the court of Oyer and Terminer, and General Sessions of the peace, was to be appointed by the court of general sessions of the peace, and to hold during the pleasure of the court; and by the 9th Sec. of the Constitution, all other Clerks of courts were to be appointed by the courts respectively, and to hold for three years, unless sooner removed by

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the council. The Register and *Clerk of the city* (being this same common Clerk in the charter) was by the Constitution, (Art. 4th, Sect. 8,) to be chosen by the electors triennally, and as often as vacancies should happen. Under the Act of April 7th, 1830, Ch. 122, amending the charter, each board of the Common Council choses its own Clerk, but the Clerk of the board of Aldermen was to be by virtue of his office, Clerk of the Common Council. As the law stands, the common Clerk of the charter is stripped of the office of clerk to the Common Council, and of clerk of the courts of Oyer and Terminer and General Sessions of the peace, and of clerk of the peace, and as register of deeds and mortgages. He is reduced, so far as *Courts* are concerned, to the single office of Clerk of the court of Common Pleas; but he is still the *Clerk of the city and county*, and as such, is charged with many incidental duties belonging to such an office, such are his duties relative to elections, and to the board of supervisors, and to the registry of names in times of pestilence, and relative to a variety of other matters appropriate to the office of county and city clerk.

NOTE XLIII. P. 76.—U. U.

This Section affords a striking sample of professional monopoly. The charter appointed eight Attornies by name, during good behaviour, as Attornies in the Mayor's court, and with a prohibition to any other Attornies to practice therein. These named, were liable to be removed by the court with the approbation of the Governor for ill behaviour, and with permission in the court to recommend to the Governor others to supply vacancies, and whom he was to approve of and appoint. The number of Attornies was never to exceed five after the death or removal of any two of those named.

This power in the Governor, and that limitation as

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to number, ceased at the revolution. The constitution of, 1777 placed in every court, the power of appointing, licensing and regulating in its discretion, the attornies of the court, and so the power has continued to this day, subject to legislative regulation. (See R. S. Vol. 1. 108, 109, and Vol. 2, 28.

NOTE XLIV. P. 78.—X. X.

The 31st Section has become entirely superseded. It authorised the Mayor, Recorder, and Aldermen, and each of them, to hear, try and determine, with or without a jury, and according to equity and good conscience, civil causes to 40*s.* value in controversy; and to administer an oath to either party at discretion; and to enforce the judgment or decree by imprisonment.

The authority of Justices of the peace in every part of the colony, to try civil causes not exceeding 40*s.*, was established by the colony act of 1737, soon after the date of the charter. Their jurisdiction was subsequently enlarged to £5, by the act of 12th March 1772, and an attempt of the colonial Legislature to increase their jurisdiction to £10, was defeated. The first £10 act since the revolution, was passed on the 11th of April 1782, and it enabled the Mayor, Recorder and Aldermen, separately as justices of the peace, to hold such courts. The Act of 17th April 1787, Ch. 89, was a regular digest of the jurisdiction and proceedings in justices courts, and to relieve the city magistrates, it authorized the appointment of *assistant justices* in New York, specially to hold such courts. It was a matter of doubt whether Aldermen as justices of the peace could hold these courts, and the Act of 21st February, 1791, Ch. 12, was accordingly passed, declaring that they could not try causes under the £10 act. After-

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wards by the act of February 16th, 1797, Ch. 20, a new system was tried by the appointment of justices of the peace for the special purpose, with directions for two of them according to an order of rotation, to hold *a court of Record daily* in the city hall, and to have a Clerk and seal, and hear civil causes of £10 value and under.

This last act was repealed and a new organization of the system introduced by the act of March 24th, 1804, Ch. 27, directing the appointment of *eight justices of the* peace with exclusive power of trying causes of the *value of* $50 and under. They were to hold daily, two courts, each at a distinct place in the city, and two justices were to be present in each court; and they were to hear and try marine causes between masters and seamen, though exceeding $50 in value. This last act was amended by an act of 4th April, 1806, and then repealed, and a further scheme of holding justices courts, instituted and tried under the act of April 6, 1807, Ch. 139. By that act *an assistant justice* was to be appointed in each ward of the city, with authority to each, to hold a court for the trial of civil causes, not exceeding $25 in value. Each of these tribunals were regular *justices courts for each ward.* The same act established also as a distinct tribunal, *the justices court.* It directed the appointment and commission of three justices of the justices court, who were to hold it and to try causes between $25 and 50, and marine causes between master and mariners, though the demand exceeded $50. Two of the justices were to constitute the court. It was to be held daily, and had a seal and clerk as a court of record. This last act was amended by the act of March 18th, 1808, Ch. 58, and also re-enacted in the revision of the statutes in 1813, (act April 9th, 1813, Ch. 86, Sec. 85—149) and is now in force under some modifications. Thus by the act of

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February 28, 1817, Ch. 60, the jurisdiction of the justices court was enlarged by the power of arrest of ships and vessels for marine debts; and by the act of April 15th, 1817, Ch. 249, the general jurisdiction of the court was enlarged from $50 to $100 in amount. So by the act of April 25th, 1818, Ch. 265, any one justice may hold the justices court; and by the act of March 16th, 1819, Ch. 71, the justices court is directed to be called *the Marine Court*, and the assistant justices of the several wards were not to have jurisdiction as to seamen's wages.

By the act of January 4th, 1820, ch. 1, the *assistant justices* were reduced to five, with jurisdiction as such justices over distinct and specified wards, and enlarged to causes of $50 in value. Each assistant justice was to have a clerk appointed and paid for his services by the Common Council. The bounds of their jurisdiction were altered, and the number of them increased by the act of April 14th, 1817, chap. 262, and by the R. S. vol. 1, 97, so as to consist of seven assistant justices, with a clerk to each, appointed by the Common Council. These assistant justices and their clerks were directed by the constitution of 1821, (art. 4, sec. 14, and R. S. vol. 1, 110,) to be appointed by the Common Council of the city, and to hold their offices for four years, and to be removable by the county court for cause shown. By the act of March 21st, 1823, ch. 70, (see also R. S. vol. 1, 107.) the justices of the marine court are directed to be appointed by the Governor and Senate, and they hold their offices for five years.

This is a general historical sketch of the exceedingly mutable, but now complex and stately system of civil jurisdiction over small civil cases, which has grown out of the humble provision contained in the 31st section of the charter, and which has entirely overwhelmed and destroyed it.

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The 32d section was the ordinary direction to the Sheriff, common Clerk, Chamberlain, and all other subordinate officers, to be obedient to and to execute the commands of the Mayor, Recorder, and Aldermen.

NOTE XLV. P. 81.—Y. Y.

The 33d section related to the oaths of office to be taken by the Mayor, Recorder, Aldermen, and all other city officers, and by whom to be administered. This whole section was superseded by the act of February 8th, 1788, ch. 28, which prescribed the form of the oaths to be taken by every judicial and ministerial officer in the state, and by whom to be administered. The R. S. vol. 1, 118, 119, have declared the existing law on the subject.

NOTE XLVI. P. 82.—Z. Z.

The 34th section provides that none of the free citizens of New-York, shall, while inhabitants thereof, be bound against their will, to serve on any jury or inquest out of the city; nor be elected assessor, taxer, or collector of taxes, out of the city; nor be appointed or chosen constable, bailiff, or other ministerial officer, out of the city; nor be liable to fines or forfeitures for refusing to serve on any inquest or jury out of the city.

The privileges conferred by this section are valid vested rights, of which the citizens could not lawfully be divested. They are personal rights granted to each inhabitant, who, as a citizen, partakes of the corporate franchise. The grant, however, is of no moment at this day, for no town or ward out of the city would ever think of having a non-resident assessor,

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collector, or constable, put over them. The law authorizing the courts to order a foreign jury when they think proper, and to award a venire to the Sheriff of the county from which the jury is to come, to summon them and return their names to the court in another county; and the power of the supreme court to order trials at bar of issues, in fact, from any of the counties, are powers which might come in collision with this franchise. (See R. S. vol. 2, 409, 410; and the same power was granted by the act of April 19th, 1786, ch. 41.) But if a citizen summoned to another county should choose to contest the right with the court, under the article in the constitution of the United States, prohibiting state laws impairing the obligation of contracts, (a case, however, not likely to occur,) I am of opinion he would be successful.

NOTE XLVII. P. 83.—A. A. A.

This section contains a grant or confirmation to the inhabitants, of all the real estate before granted to them by the government of the colony, or corporation of the city. No such title can become a matter of dispute at this day; and the quit-rents reserved by the charter, and the long arrears of which were demanded by the Comptroller of the state, on the first institution of his office, in 1797, have doubtless been extinguished by commutation; or if there be any remains of them not discharged in that way, or demanded, they are probably discharged by the operation of the statute of limitations, which commenced to run against quit-rents on 1st January, 1820. (Act of April 12th, 1813, ch. 119.)

NOTE XLVIII. P. 84.—B. B. B.

The 36th section authorizes the corporation to hold

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real estate in fee simple, within and without the city, so as that the clear yearly value of the real estate so owned by them at any one time, does not exceed the clear yearly rent or value of £3,000 sterling, and the same to let and dispose of at pleasure.

The limitation of the amount of lands to be held by the corporation, means only that the value be within the sum prescribed, when purchased or taken by the corporation. If the lands should afterwards rise in value by good management, or by extraneous causes, or any means whatsoever, (as the lands of the corporation doubtless have risen in value beyond all anticipated calculation,) the title of the corporation is not thereby affected. The yearly value at the time, is all that the limitation requires. This reasonable rule of construction is founded on the common law. (2 Coke's Inst. 722.

NOTE XLIX. P. 86.—C. C. C.

The 37th section contains a general grant and confirmation to the corporation, and their successors, in fee, of the city hall and gaols, the five market-houses, the great dock, the crane and wharf, the powder-house, all the ferries then and thereafter to be established all around Manhattan Island, with power to make rules and regulations for governing the same; the ferry houses on Long Island, with their appurtenances; the land between high and low water mark, on Long Island, from the east side of the Wallabout to the west side of Red Hook; the unpatented and unappropriated lands in the city and on Manhattan Island, extending to low water mark, with the right of all docks, wharves, cranes, and slips, within the city, with the rents and profits thereof; and the rivers, creeks, ponds, waters, water-courses, fishing, fowling,

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hunting and hawking, mines and minerals, and other royalties and privileges within the city and island; and all the rights, privileges, franchises, jurisdictions, powers, courts, offices, markets, ferries, fees, perquisites, rents, and real estate, granted in and by the charter of 1686, and in the charter of Queen Anne, aforesaid, or which the corporation or inhabitants hold by prescription; excepting Fort George and its appurtenances, and the governor's garden, and the king's farm, and the swamp adjoining it.

The observations naturally arising on this wide-sweeping confirmatory grant, have been already anticipated and made, when former sections on the same subjects were under review. See note B. p. 7, note C. p. 8, note D. p. 9, note Q. p. 24, note S. p. 34, and note G. G. p. 58. It becomes unnecessary to enlarge upon them here. There can be no doubt that all the grants and franchises confirmed by this section, were binding as grants of property, and could not ever lawfully be disturbed. But notwithstanding the amplitude of the charter powers, as to wharves, piers, docks, bulkheads, and shores along the East river and Hudson river, legislative and special powers have been granted on this as well as on most subjects of municipal police; and for this see the acts of April 16th, 1830, ch. 222, April 26th, 1834, ch. 186, and of April 20th, 1835, ch. 124, and the general act of April 9th, 1813, ch. 86, secs. 219—236, by which the authority to lay out wharves and slips, and to cause piers to be sunk and completed in front of the streets and wharves, and to regulate the whole subject, is amply conferred.

NOTE L. P. 89.—D. D. D.

The 38th section contains a grant and confirmation to the corporation and their successors in fee, of the

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soil of Hudson river under water, extending 400 feet into the river, and containing 82 1-2 acres of land. It is described by courses and distances, and lies at the south west end of the city, adjoining the then Fort. Also of the soil of the East river, form the north side of Corlaer's Hook to Whitehall, described by courses and distances, and comprehending 400 feet, from low water mark, into the East river, containing 127 acres, with power to wharf out the same, and to build upon and use it as they, the corporation, should see fit. It excepts from its operation all previous grants of keys or wharves to individuals beyond low water mark; and also 40 feet broad, to be left towards the East and North rivers for public necessities, and reserving upon the grants made by the charter, a yearly quit-rent of 30 shillings proclamation money, besides the yearly rent of one Beaver skin, or the value thereof, under the charter of 1686, (as see *ante*, p. 8,) and of 5 shillings under the charter of Queen Anne, as see *ante*, p. 29. In the case of *Verplanck* vs. *the city of New-York*, in 2 Edw. v. ch. Rep. 220, it was observed that the consolidated act of 1813, ch. 86, sec. 224 and 225 related to the building of *piers on private property*, and that the corporation were vested with authority to direct piers to be sunk and completed at the expense of the proprietors of lots lying opposite to the places where piers shall be sunk, and then to grant to the owners of lots a community of interest in the piers in proportion to the breadth of their lots. This was a mere power, and the corporation acquire no interest or ownership in the piers, unless the individual proprietors refuse or neglect to construct the piers. In that event the corporation do the work at their own expense, and become owner, and receive the wharfage. The corporation cannot reserve or take any wharfage arising from a pier built at the expense of individuals, nor any slip-

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age on the side of the pier adjacent to a public slip, but not contiguous or on a line with the side of the slip. (*Corporation of New-York* vs. *Scott*, 1 Caines, 543.) But the powers and rights of the corporation relative to sinking piers and enlarging slips, and receiving wharfage and slipage in such cases, were enlarged afterwards and confirmed and incorporated in the general act of April 9th, 1813, ch. 86, sec. 128–130, and which act is still in force.

There can be no question about the validity and indefeasible nature of those grants of property to the corporation, nor that they were equally bound to answer for the quit rents reserved, and would be still if the quit rents were not commuted or extinguished, as is understood to be the case. (See Ante. note A. A. A.)

NOTE LI. P. 92.—E. E. E.

This Section, by express covenant, assures to the corporation the full and perfect enjoyment of all their rights and privileges, free from all hindrance by information, *quo warranto*, or other process; and notwithstanding any previous default, non-user or mis-user, which are all remitted and released, together with all fines and forfeitures whatsoever. This section requires no comment.

NOTE LII. P. 95.—F. F. F.

The concluding section of the charter is a repetition of the one preceding, for it contains a covenant that the corporation shall quietly enjoy all its rights, franchises and property as contained in the charter, and which is to be taken and expounded benignly in favor of the corporation.

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NOTE LIII. P. 105.—G. G. G.

The charter was explicitly confirmed in all its parts and bearings by an act of the colonial legislature of the 14th of October, 1732; and it was along with other charters, saved and confirmed by the constitution of 1777, and again by the constitution of 1821.

A city convention was chosen by the people, in pursuance of the recommendation of the Common Council, to revise and propose amendments to the charter. The convention consisted of five members from each ward, (total 65 members,) and they met in June, 1829, and after a protracted discussion, they agreed to a series of amendments, which were submitted together to the people, and approved of by them by a regular vote by ballot in the several wards. An application was thereupon made to the legislature to have the amendments ratified by law and made part of the charter. This was done by the act of April 7th, 1830, ch. 122.

The essential alterations in the charter by the proceedings and act referred to, consist in a division of the Common Council into two boards, consisting of a Board of Aldermen and a Board of Assistants, who are to sit and act separately, with concurrent and equal powers. Every law, ordinance or resolution of the Common Council must pass both Boards, and be submitted to the Mayor before it passes, and if he, within ten days, returns the same with objections, it must be reconsidered, and pass both Boards by a majority of all the members elected to each, before it becomes a law of the corporation. The general duties of the Mayor are more specifically defined and enlarged, by requiring him to communicate to the Common Council, once a year and oftener, if need be, a general statement of the condition of the city government, finances and improvements, and recommend such measures as he

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shall deem expedient; and to be active and vigilant in the exercise of the duties of his executive trust as Mayor.

As a further check to improvident legislation, no monies are to be drawn from the city treasury, but upon previous specific appropriations; and the Common Council are prohibited to borrow monies on the credit of the corporation, except in anticipation of the revenue of the year, unless authorised by a special act of the legislature; and they must publish annually, two months preceding the charter election, a detailed statement of the receipts and expenditures of the corporation for the year preceding; and provide for the accountability of all officers and others entrusted with city funds, by requiring security from them.

There is no part of the amended charter of 1830 which goes to control the exercise of the general powers contained in the original charter, (*ante.* p. 54, and note F. F.) as to the expenditure of monies by the Common Council in their sound discretion, for objects, connected with the safety, welfare, property, trade or character of the city, and of which they are the representative guardians and trustees. The act of 1830 specially authorises annual and occasional appropriations, by proper ordinances, for every branch and object of city expenditure, and as those objects are not and could not be defined, they must necessarily be left to the good sense and judgment of the Common Council. The checks against improvident expenditures, or injudicious investments of the city funds, consist specially in the mode in which ordinances are to be passed, and in the annual detailed statements of the receipts and expenditures, as well as generally in the representative character of the Common Council. When extraordinary expenses are requisite, and which the ordinary revenues of the corporation are inadequate to

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meet, the Common Council are in the practice of applying for legislative aid. We have instances of this in the act of June 8th, 1812, ch. 99, authorising the corporation to create a public fund or city stock, by subscription, not exceeding $900,000; in the act of March 24th, 1820, ch. 101, authorising the creation of further stock to $400,000; and, especially, in the act of January 16th, 1836, authorising the corporation to purchase bonds belonging to fire insurance companies, duly secured by mortgage, to an amount not exceeding six millions of dollars, and to provide the requisite funds for that purpose, by the issue of corporate stock, at an interest not exceeding five per cent., and redeemable within seventeen years.

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A TREATISE

ON THE

POWER, DUTIES AND AUTHORITY

OF THE

Mayor, Aldermen & Assistant Aldermen

OF THE

CITY OF NEW-YORK.

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ADVERTISEMENT.

The following essay was composed in pursuance of a resolution of the Common Council, passed November 2d, 1835, in which the Author was requested "to prepare a treatise on the power, duties and authority of the Mayor, Aldermen and Assistant Aldermen, as granted to them by the charter and the several laws of the Legislature of this state, to be annexed to, and published with the charter and notes thereon, as prepared by him."

I have endeavored to fulfil the object of this Resolution, by giving the work a condensed form, so as to render it most fit for convenient and practical use; and especially as it was to compose part of the same volume with the charter and my notes and commentaries thereon, and with the Journal of the proceedings of the Convention for amending the charter. A more minute and detailed view of the powers and duties of these corporate officers, would only have been a repetition of the language of the charter, and of the notes thereon, and of the numerous statutes applicable to the subject; and it would also have rendered the volume inconveniently large. There will be no difficulty, as I apprehend, in finding in the volume, as it is now digested, a prompt and easy guide to all the various powers and duties of the Mayor and members of the Common Council, and to the chartered and legislative foundations on which those powers are supported.

New-York, March 1st, 1836.

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CHAPTER I.

OF THE POWER, DUTIES AND AUTHORITY OF THE MAYOR.

I.—*Of his Legislative powers.*

Messages to the Common Council.

[1.] He is to communicate to the Common Council, at least once a year, and oftener, if he shall deem it expedient, a general statement of the situation and condition of the city, in relation to its government, finances and improvements.

Recommendations to them.

[2.] He is to recommend to the adoption of the Common Council, all such measures connected with the police, security, health, cleanliness and ornament of the city, and the improvement of its government, and finances, as he shall deem expedient. (Act of April 7th, 1830, Ch. 122, Sec. 17, *Vide Supra*, p. 103.)

Revision of ordinances.

[3.] He is to receive and examine every act, ordinance or resolution, which shall have passed the two boards of the Common Council, and which shall be presented, duly certified, to him for his approbation. If he approves, he must sign it; if not, he must return it with his objections to the board in which it origin ated within ten days thereafter; or if such board be not then in session, at the next stated meeting. If the Mayor shall not return any act, ordinance or resolution so presented to him, within the time limited for that purpose, it takes effect in the same manner as if he had signed it. (Act of April 7th, 1830, Ch. 122, Sec. 12, 14. See *supra*, p. 102.)

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II.—*Of his judicial powers.*

Justice of the peace.

[1.] He is *ex officio* a justice of the peace. (Charter, Sec. 26. See *supra*, p. 68, and note 40, R. R.—R. Statutes, Vol. 2, 704, Sec. 1.) But the general duties of the office of justice of the peace, and with which he is clothed, equally with the city Judges, the Recorder, and each of the Aldermen, are particularly confided to the special justices, who are to execute within the city, the like authorities which are vested by law in justices, as conservators of peace. (See the act of April 9th, 1813, Ch. 86, Sec. 22—24, and the act of March 26th, 1832, Ch. 58, and *supra*, note 40, R. R.) The Mayor, Recorder, and Aldermen may be considered as essentially released from attending to the ordinary duties belonging to the office of a justice of the peace. But the Mayor and each of those officers, as well as the Chancellor and Judges of the Supreme Court, whenever they shall severally deem the occasion to require it, may be in the police office of the special justices, and then and there do every act which they shall deem requisite to be done by them as conservators of the peace. (Act of April 9th, 1813, Ch. 86, Sec. 23, and which act was not revised, and was left in force in 1830, as see the Revised Statutes of 1830, Vol. 3, 647. The act itself is in the Revised Statutes of 1813, see Vol. 2, 342. Its numerous provisions are still in force, except so far as they may have been altered or controlled by new, more specific, or inconsistent provisions in the Revised Statutes of 1830, or in acts subsequently passed.)

There are, however, many statute provisions which apply expressly to the Mayor and Aldermen as justices or conservators of the peace, and which prescribe duties that they may at times be called on to execute, and which partake of a judicial nature. The most prominent of those provisions are those which follow.

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(1.) If a complaint should be made in writing, and upon oath, under the act *to prevent the commission of crimes*, (R. S. vol. 2, 704, sec. 2,) or under the act *for the arrest and commitment of offenders*, (*Ibid.* 706, sec. 2.) and the applicant should not be disposed, though advised, to apply elsewhere, it might be deemed the duty of the Mayor, Judge or Alderman applied to, under the express and mandatory language of the statute, if not otherwise engaged in some incompatible duty, to examine into the complaint and take cognizance of the case. This is to be done in the case of a breach of the peace only threatened, by examining the complainant and any witnesses he may produce, on oath, and reducing the examination to writing; and if there shall appear to be just reason to fear the commission of the offence, by issuing a warrant, and having the person complained of brought before him, when his recognizance is to be taken, with sufficient surety, to appear at the next General Sessions, and in default of entering into recognizance with the required surety, the person complained of is to be committed to prison. (R. S. vol. 2, 704, sec. 2. 3. 4. 5.) But in the case of a charge of a criminal offence already committed the proceeding is more strict and solemn. A formal examination takes place when the accused is arrested and brought before the magistrate, and the parties are examined and witnesses on each side, and the prisoner is to be committed, if there be probable cause for the charge, and the crime be of a magnitude not bailable by a justice. But if the charge be of an offence of an inferior grade, he is to be bound by recognizance to appear at the next court having cognizance of the crime, or be discharged, as the nature and circumstances of the case may require. (R. S. vol. 2, 706–709.) Arrest of offenders.

Such cases, it is to be presumed, will rarely call for the exercise of this power by the Mayor or the Alder-

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men. They have other sufficient and more appropriate duties to perform, and the police office of the special justices is the proper forum for such business. But they cannot well avoid the duty, if any person should break the peace, or threaten to break it in their presence, and the Mayor or Alderman would be required to bind the offender over to the next sessions, and in the mean time to keep the peace, and in case of refusal, to commit him to prison. (R. S. vol. 2, 705, sec. 8.)

(2.) The Mayor, Recorder, every Alderman and every Special Justice before whom any person described as a *vagrant*, under the act of January 23d, 1833, ch. 11, shall be brought for examination, is required to take cognizance of the case. As cases of this kind are more likely to come before the Aldermen than the Mayor, I shall reserve any further notice of their duty for the subsequent part of this treatise on the duties of the Aldermen as Justices of the peace.

Vagrants.

(3.) The Mayor and Recorder, or any two Aldermen, or two Special Justices, on complaint and competent proof that any child is found in a state of want and suffering; or abandoned; or improperly exposed or neglected by the parents or other person having the same in charge; or that it solicits charity from door to door, in the streets, &c; or if the mother be convicted of being a common prostitute; or the parent be the keeper of a bawdy house, may commit such child to the alms house or other suitable place for labor and instruction. (Act of January 23d, 1833, ch. 11, sec. 18.)

Poor and suffering children.

(4.) So again, if the offence of profane cursing and swearing be committed in the presence and hearing of any Justice of the Peace, Mayor, Recorder or Alderman, and under such circumstances as, in the opinion of the magistrate, amounts to a gross violation of public decency, he may, in his discretion, convict the of-

Profane swearing.

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fender without further proof; and if the penalty and costs be not paid forthwith, he is to be committed by warrant to the common jail for every offence, or for any number of offences whereof he was convicted at one and the same time, not less than one nor more than three days, in separate confinement. (R. S. vol. 1, 673, sec. 61. 62. 63.)

Disturbing religious meetings.

(5.) The Mayor, Recorder, Aldermen, or any of them, or any other magistrate may convict summarily, disturbers of religious meetings, and commit them to jail in default of paying the penalties. (R. S. vol. 1, 674, sec. 65–68.)

(6.) If persons expose goods for sale on Sunday, except meats, milk and fish before 9 o'clock in the morning, the articles may be seized and sold under a warrant from the Mayor, Recorder or any Alderman, upon conviction of the offender. (R. S. vol. 1, 676, sec. 71.) So if any complaint be made of any violation of the act for the observance of Sunday; or if any such violation happens in the presence of any Justice of the Peace, Mayor, Recorder or Alderman, he shall cause the offender to be brought before him, and summarily inquire into the facts. If the offender be convicted by the magistrate, a record of the conviction is to be made, and it is final and not re-examinable on the merits, and the penalty is to be collected, if necessary, by the award of execution. (R. S. vol. 1, 676–677, sec. 73. 75.)

Violation of Sunday.

Apprentices.

(7.) The Mayor is authorised to act in concert with the overseers of the poor, in binding out the children of poor parents, as clerks, apprentices and servants; and he may in some instances alone, and in others in association with the Recorder and one of the Aldermen, hear complaints and afford relief in cases of difficulty or abuse arising out of the relation of master and apprentice or servant. (R. S. vol. 2, 154. 155. 159 160, sec. 1. 6. 29. 30. 31. 32. 33. 35. 37.)

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Upon these and perhaps other duties which belong properly to the functions of a justice of the peace, I have not thought it necessary to enlarge further in this place. Some of them are more specifically detailed hereafter, when treating of the duties of the Aldermen as justices of the peace. Such duties will more naturally devolve upon them than upon the Mayor, and especially do they appertain to the special justices in their police offices. Those justices are instituted and organized for the very purpose. They have select constables and marshals to attend them during their pleasure, daily, at the police office, and to execute their orders, and I do not consider that either the Mayor or Aldermen are required to attend to such duties, unless in special cases, and according to their sound discretion.

Special Sessions of the Peace.

[2.] The Mayor is one of the judges of the courts of *Special Sessions of the Peace.* That court consists of three persons, viz: the Mayor and two Aldermen, or the Mayor, Recorder, and one Alderman, or the Mayor, Recorder and first judge of the Court of Common Pleas, or the Recorder and two Aldermen, or the Recorder, first judge and one Alderman, or the first judge and two Aldermen. (R. S. Vol. 2, 223, Sec. 1.) But as the Recorder is specially charged with the duty of presiding therein, except when actually engaged in the Court of General Sessions, (R. S. Vol. 2, 715, Sec. 24.) the Mayor need not attend except on special occasions, when his presence may become necessary. It cannot be considered as a breach of his ordinary duty. The Common Council are to designate, from time to time, the Aldermen to assist in such courts. (*Ibid.*)

[3.] The Mayor is authorised in conjunction with two Aldermen, or with the Recorder and one Alderman, or with the Recorder and the first judge, or the associate judge of the Court of Common Pleas, or with the

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first judge and one Alderman, or with the associate judge and one Alderman, to hold courts of *General Sessions of the Peace* in and for the city. (R. S. Vol. 2, 216, Sec. 27, Act of 1834, ch. 94.) But as it is made the special duty of the Recorder to hold such courts in conjunction with two others of the magistrates above mentioned; and as it is made the duty of two of the Aldermen to attend as judges of the said court, when notified or required for that purpose by the mayor or Recorder, (R. S. Vol. 2, 216. 217, Sec. 28. 30.) it is not deemed to be the duty of the Mayor to attend those courts, unless some unexpected exigency should render it necessary for him to preside. (Vide *Supra.* p. 69, and note R. R.) General Sessions of the Peace.

[4.] He is a judge of the *Court of Common Pleas.* The court may be held either by the first or the associate judge, or the Mayor or Recorder alone, or in connection with one or more of the aldermen, who are declared to be judges of that court. It is made the special duty of the first judge to hold the court; (R. S. vol. 2. 215, sec. 22. 23.) and though the injunction has not been expressly applied to the associate judge whose office was since created, and who is declared to have the same power with the first judge to hold the court, yet it impliedly extends to him. (Act of April 11th, 1834, ch. 94.) Under these provisions it cannot be deemed the ordinary duty of the Mayor to attend this court as a judge. Nothing short of some extraordinary occasion would render it the duty either of the Mayor, or Recorder, or any of the Aldermen to attend as judge. (See note 41, p. 72, S. S.) Not so with the associate judge. His duty would seem to be concurrent with that of the first judge, for his office was created *specially for that court*, and with equal powers as the first judge in reference to it. Court of Common Pleas.

[5.] The Mayor is authorized to act as one of the

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judges of the courts of *Oyer and Terminer, and Gaol Delivery*, in and for the city and county. (R. S. vol. 2, 204, sec. 28.) But as these courts may be held by one of the justices of the supreme court, or by one of the circuit judges, or by the first judge of the court of common pleas, together with the Mayor, Recorder, and Aldermen of the city, or with any two of them, it cannot be considered as a special duty of the Mayor to attend, considering the other multifarious and complex duties which appertain to his office, unless special circumstances should render his attendance a matter of evident and paramount obligation. (*vide supra*, p. 70, note 40, R. R.)

Courts of Oyer and Terminer.

III.—*Of his executive powers and duties.*

(1.) The Mayor is to be vigilant and active in causing the laws and ordinances for the government of the city to be duly executed and enforced. (Act of April 7th, 1830, ch. 122, sec. 17. *Supre*, p. 103.

To enforce the city laws.

(2.) He is to exercise a constant supervision and control over the conduct and acts of all subordinate officers, and to receive and examine into all such complaints as may be preferred against any of them for violation or neglect of duty; and generally to perform all such duties as may be prescribed to him by the charter and city ordinances, and the laws of this State and of the United States. (*Ibid.*)

Control of subordinate officers

(3.) The Mayor, together with the Recorder and Aldermen, are *Supervisors* of the city and county, with all the powers and duties attached to that office by the laws of the State, and it is essential that either the Mayor or Recorder be present at each meeting of the board. (R. S. vol. 1, 368, sec. 17. Act of April 9th, 1813, ch. 86, sec. 150. Act of April 6, 1825, ch. 83, sec. 1. 2.) A view of the general duties of the board

Supervisor.

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of Supervisors, is reserved until we come to treat of the executive duties of the Aldermen.

(4.) The Mayor, together with the Alderman and Assistant of each ward, are *Commissioners of Excise* for the ward. Their duties are prescribed by the acts of April 10th, 1824, ch. 215, and of April 16th, 1825, ch. 196; and these acts were not included in the revised statutes, and are still in force. The more particular statute provisions on that subject, are stated hereafter under the head of the executive duties of the Aldermen. Commissioner of Excise.

(5.) The Mayor was authorized by the charter to appoint and license, at discretion, marshals, porters, carriers, cartmen, carmen, packers, cullers, common cryers, and scavengers. (Charter, sec. 24, note 38, P. P. *vide supra*, p. 66.) This power appears to reside still in the Mayor, where the charter had placed it, but under some restrictions. Thus, the number of marshals is not to exceed 100. (Act of March 26th, 1832, ch. 58, sec. 3.) It is likewise declared that there shall not be less than eight, nor more than ten cullers of staves and heading, in the city; (R. S. vol. 1, 99.) *and if they be the cullers alluded to in the charter*, as I presume they are, then they are no longer appointed by the Mayor, but by the Governor and Senate; and before the amended constitution of 1821, they were appointed by the Council of Appointment. (Act of March 26th, 1813, ch. 36. R. S. vol. 1, 116, sec. 4.) To appoint marshals, cartmen, &c.

(6.) He is authorized to call upon any practitioner of physic in the city, and require his opinion in writing, as to the existence of any infectious or contagious disease in the city. If he deems the opinion to warrant it, he may, when required, deliver certificates of health to the masters of vessels. (Act of April 9th, 1813, ch. 86, sec. 262.) He may also, in cases of pes- Infectious diseases.

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tilence or other public calamity, change the place of meeting of the courts of justice, from the city hall, to some other place within the city. (R. S. vol. 2, 290, sec. 89.)

President of the Board of Health.

(7.) The Mayor is President of the *Board of Health.* (R. S. vol. 1, 422, sec. 1.) Whenever in his judgment the public health shall require it, he may order vessels from the wharves of the city, or in its vicinity, to the quarantine ground, and may require articles landed to be seized and returned on board, or removed to the quarantine ground. (*Ibid.* sec. 11.) He may send to the marine hospital, or such other place as the board of health shall direct, non-residents sick with any malignant or contagious fever. (*Ibid.* 441, sec. 4.) He is to aet in conjunction with the commissioners of health, relative to the arrival of vessels, and the landing of cargoes from vessels coming from infected places; (*Ibid.* 435, sec. 57, 60, 61.) and he may by proclamation designate infected places, and apply the quarantine laws to vessels coming from such places. (*Ibid.* 436, sec. 64, 65, 66.)

Gunpowder.

[8.] The Mayor or Recorder, and any two Aldermen are empowered to inquire into the seizure of gun powder by fire wardens or firemen, and in their discretion to order the same to be restored. So the Mayor is authorized, upon complaint on oath, and reasonable cause of suspicion, that any gun powder has been brought, or is kept within the city, or in the harbor thereof, contrary to law, to issue his warrant, under hand and seal, to any sheriff, marshal, constable, or other fit person, to search for the same in the day time, wheresoever the same may be in violation of law, and to seize the same if found, and to cause the same within twelve hours, in the day time, after the seizure, to be conveyed to any magazine used for storing gun powder, there to be detained until the

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question of forfeiture is determined, unless the Mayor or Recorder, and two Aldermen shall order it to be restored as above provided. (Act April 26th, 1830, ch. 291, sec. 31, 32, 33.) As, however, the special justices, or any two of them, as well as the Mayor or Recorder, or any two Aldermen have the like power of issuing the search warrant, the duty will, no doubt, ordinarily devolve upon them.

(9.) At fires, the Sheriff, Deputy Sheriffs, Constables and Marshals, are required to be present, and to be aiding and assisting to extinguish the same, and protect property. They are to be obedient to the orders of the Mayor, Recorder and Aldermen, or such of them as shall be present, in relation to the execution of their duties. (Act of April 9th, 1813, ch. 86, sec. 77.) And if any building be on fire, the Mayor, with the consent and concurrence of any two Aldermen, or any three Aldermen without the Mayor, may order the same or any other building which they shall deem hazardous, and likely to take fire, or convey it to other buildings, to be pulled down or destroyed; and the Mayor or Recorder, or any two Aldermen, on application, may order the damages which the owners of such buildings, and all persons having any estate or interest therein, have sustained by the pulling down or destroying thereof, to be assessed by a jury. (*Ibid*, sec. 81.) So the Mayor and Recorder and Aldermen, or any of them, may order idle and suspicious persons to be removed and kept away from the vicinity of the fire. (*Ibid*, sec. 82.) Fires.

(10.) The Mayor is to license the owners of hackney coaches, and carriages for hire, under the direction of the Common Council, and who are to pay an annual sum for the same. (Act of April 9th, 1813, ch. 86, sec. 272, and act of February 21st, 1824, ch. 50.) The provision applies to all accommodation stages or coach- Hackney Coaches.

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es, and undoubtedly includes the new vehicles called *Omnibuses*, for they are all carriages for hire.

(11.) He is to license annually every theatre or circus, and receive the monies to be paid for the same, and which is to be paid over to the Treasurer of the Society for the reformation of juvenile delinquents. (Act of April 29th, 1829, ch. 302, sec. 4 and 5.

Theatres.

(12.) Every master of a ship or vessel arriving at the port of New-York from any country out of the United States, or from any other of the United States, is directed to report within twenty-four hours after the arrival of the ship or vessel, on oath or affirmation, to the Mayor, the name, place of birth, and last legal settlement, age and occupation of every passenger; and of all passengers who shall have landed at any place during the voyage, or gone on board of any other vessel with intention of proceeding to the city of New-York. And the Mayor is authorized to require by a short endorsement on the report, that the master shall be bound with two sufficient sureties to the Corporation for each passenger, not being a citizen of the United States, to indemnify the Corporation and the Overseers of the Poor from all expenses and charges for the maintenance and support of every such passenger, and of the child or children of such passengers born after such importation, in case such passenger, or child or children shall, within two years from the date of the bond, become chargeable to the city. If any person so brought, and being a citizen of the United States, shall by the Mayor, be deemed likely to become chargeable to the city, the Mayor under his hand may order the master to remove such person without delay, to his last place of settlement. So any person not being a citizen of the United States, who shall enter the city with the intention of residing therein, shall, within twenty-four hours, report himself in writing on oath, to the Mayor, stating his

Emigrants

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name, age and occupation, and the vessel he came in, and the name of the master thereof, and the time and places when and where he landed. (Act February 11th, 1824, ch. 37, sec. 1, 2, 3, 4.)

There may be other incidental duties belonging to the office of Mayor, and prescribed by statute, which have escaped my observation; but I trust that they are not very prominent ones, or which will occur frequently. The present sketch may answer all the essential purposes, as regards that office, which were contemplated by the resolution under which I have acted.

CHAPTER II.

ON THE POWER, DUTIES AND AUTHORITY OF THE ALDERMEN OF THE CITY OF NEW-YORK.

I.—*As Members of the Common Council.*

The legislative power of the Corporation of the city is vested in a board of Aldermen and a board of Assistants, who together form the Common Council.

An Alderman for each ward is elected annually at the election for charter officers, commencing on the second Tuesday in April in each year. He must, at the time of his election, be a resident of the ward for which he is chosen. (Act of April 7, 1830, ch. 122, sec. 1, 2, 3, 4, *vide supra* pa. 99.)

It is not the object of this essay to give a treatise on the power, duties and authority of the Common Council, in its legislative character. Such a work is

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not within the trust assigned to me. The resolution under which I act says nothing about the Common Council. The general powers and duties of that very important municipal body are to be collected from the charter itself, and from the various acts of the Legislature which relate to it, and which enlarge, modify, restrict and explain its provisions. They are designated and sketched in general terms, in the act of April 7th, 1830, ch. 122, amending the charter. In the preceding commentary on the charter, I have endeavored to state the general powers and duties of the Common Council as derived from the charter and the statute law; and we need only look over the volume of laws and ordinances of the Common Council, revised, digested and published in 1834, to be satisfied of the weight of the complicated cares and duties which are confided to that municipal legislature, and which require them to regulate such vast and such minute concerns, and to affect such a variety of interests and pursuits in this great commercial city.

My object will simply be, to point out the powers and duties of the Aldermen and Assistants, individually considered; and I would only observe, in respect to their legislative duties, that they are bound to give a regular and punctual attendance at the Board, and to discharge the duties which devolve upon each member, diligently, intelligently and impartially. It is a trust of the gravest responsibility, and the good of the city at large, in all its various ties, relations and concerns, so far as they fall within the lawful cognizance of the Common Council, ought to be the grand object of every member's solicitude and efforts.

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II. ON THEIR POWERS, DUTIES AND AUTHORITY OUT OF THE BOARD.

I.—*As Justices of the Peace.*

An Alderman is, *ex-officio*, a Justice of the Peace. (Charter, sect. 26. *Supra*, pa. 68. Note 40, R. R. Revised Statutes, vol. 2, 704, sect. 1.) His authority as a Justice is not confined to his ward, but exists equally in every part of the city and county.

The duties of the office of Justice of the Peace are peculiarly intrusted to the Special Justices, and I do not consider that the Aldermen are bound to bestow particular attention to the ordinary duties of that trust, though they may, whenever any one of them shall deem the occasion to require it, be in either of the Police Offices of the Special Justices, and there do every act which he shall deem requisite as a conservator of the peace. (Act of April 9, 1813, ch. 86, sct. 23—and which is still in force.)

But as the statutes do, in many cases, mention the Aldermen as being magistrates who may be called on to exercise the authorities belonging strictly to justices of the peace, I have thought it advisable to notice the most material of those cases. At the same time, it may be observed, that the business equally, and more appropriately, belongs to the Special Justices, and I presume that ordinarily they, and they alone, are and will be called on to exercise the power.

(1.) If a complaint should be made in writing, and upon oath, under the act to *prevent the commission of crimes*, (R. S. vol. 2, 704, sect. 2,) or under the act *for the arrest and commitment of offenders*, (*Ibid*, 706, sect. 2,) and the complainant should not be wil- Arrest of offenders.

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ling, under the circumstances, to resort to the police office, and the Alderman was not otherwise essentially engaged, it would seem to be his duty, under the strong and express injunction of the acts, to examine into the case, and take cognizance of it. The mode of proceeding has been already stated in respect to the like duties of the Mayor in the like cases, and it need not here be repeated. It would be equally his duty to act, and it would be an indispensible duty, if any person should break the peace, or threaten to do it in his presence. (R. S. vol. 2, 705, sect. 8.)

Vagrants.

(2.) It would be the duty of the Alderman, (no matter of which ward) before whom any person described as a vagrant, under the act of January 23, 1833, ch. 14, should be brought for examination, and the case could not readily be turned over to the police office, to take cognizance of it. The persons coming within the description of vagrants are described, in the first section of the act referred to, and the items of the catalogue need not be here enumerated. If the Alderman shall be satisfied, by the confession of the offender, or by competent testimony, that he comes within the description of a vagrant, he is to record the conviction and commit the offender, by warrant under his hand, for any time not exceeding six months, either to the Alms-House, or to the Penitentiary, as the case may require.

Violaters of city ordinances.

(3.) Every Alderman is likewise required to take cognizance of cases of persons charged with violating any of the ordinances of the Common Council relative to keepers of ordinaries or victualling houses, or where fruit, oysters, clams, liquors or meats shall be sold; or of ordinances for the suppression of vice and immorality; or of ordinances for preserving the peace and good order of the city; or relative to dirt carts, or firing of fire-arms and squibs, gunpowder, rockets or

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fire-works; and of persons charged with injuring lamps, windows, fixtures, &c. (act of April 9th, 1813, ch. 86, sect. 206—act of January 23d, 1833, ch. 11.) On conviction of the offender in any of the above cases before him, by confession or proof, he is to record the conviction, and to fine, imprison or bind the party to keep the peace, or to his good behaviour, as the case may require, and the law specially prescribe. (Act of January 23d, 1833, ch. 11, sect. 1, 2, 3, 4, 5, 8, 20, 21.)

(4.) So if the offence of profane cursing and swearing be committed in the presence or hearing of any Alderman, and under such circumstances as, in his opinion, amount to a gross violation of public decency, he may, in his discretion, commit the offender, without farther proof; and if the penalties and costs be not paid forthwith, he is to be committed by warrant to the common jail, for any number of offences whereof he was convicted at one and the same time, not less than one nor more than three days, in separate confinement. (R. S. vol. 1, 673, sect. 61, 62, 63. See also *Supra*, as to the like duty in the Mayor.) Profane swearing.

(5.) If any person be intoxicated, under such circumstances as, in the opinion of the Alderman, amount to a violation of public decency, he may be committed by the magistrate, upon competent testimony, and fined not exceeding five dollars, and, in default of payment, committed to prison, not exceeding five days. (Act of January 23d, 1833, ch. 11, sect. 4.) Intoxication.

(6.) So if any person shall drive or ride any horse through any street, lane, alley or public place, within the lamp district of the city, with greater speed than at the rate of five miles an hour, he is guilty of disorderly conduct, and on conviction before the Alderman, upon confession or testimony, may be fined, not exceeding ten dollars; and in default of payment, com- Driving fast.

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mitted to prison, not exceeding ten days. (*Ibid*, sect. 5.)

Religious meetings.

(7.) Any person guilty of the disturbance of religious meetings, may be convicted summarily before the Mayor, Recorder, or any Alderman, and forfeit a sum not exceeding twenty-five dollars; and in default of payment may be committed by warrant to jail, for a term not exceeding thirty days. (R. S. vol. 1, 674, 675.) The disturbances in this case are specified in the act, and the restrictions are very various, and reach to a distance, and would be very startling if they were to be enforced in all respects to the letter of the law.

Sunday.

(8.) Violations of the act for the observance of Sunday, are expressly made cognisable before the Mayor, Recorder, or any Alderman, and the restrictions amounting to such violations are very specific. They go to prohibit shooting, hunting, fowling, sporting, playing, horse-racing, gaming, frequenting tipling houses, or travelling, unless in cases of charity or necessity, or in going to or returning from some place of worship, or for medical aid, or in visiting the sick, or carrying the mail, or in removing one's family or household furniture when such removal was commenced on some other day, or in servile labor, or working, except works of necessity and charity, or by the seventh day worshippers; and the penalty for the offence is one dollar. They prohibit, likewise, exposing to sale, goods, merchandize, fruits, herbs, &c., except meats, milk, and fish, before nine o'clock in the morning. The magistrate is authorized to proceed summarily, on complaint, or when the violation is in his presence, and the conviction when made, is final. (R. S. vol. 1, 675, 676.)

Forsaken children.

(9.) So any two Aldermen, on complaint and competent proof that any child is found in a state of want and suffering, or abandoned, or improperly exposed or

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neglected by his parents, or other persons having the same in charge; or who solicits charity from door to door; or if the mother be convicted of being a common prostitute; or the parent be the keeper of a bawdy house, may commit such child to the alms house, or other suitable place, for labor and instruction. (Act of January 23d, 1833, ch. 11, sec. 18.)

These cases are mentioned, also, when treating of the powers and duties of the Mayor as a justice of the peace. But I thought it best to enumerate them again under their head, with more minuteness, even at a hazard of some repetition, as here is the place where the Aldermen would naturally look for matters relating to them as justices of the peace.

(10.) Any two Aldermen, in conjunction with the Mayor and Recorder, are empowered to inquire into the seizure of gun powder by any fire warden or fireman during a fire or alarm of fire, and in their discretion, to order the same to be restored. And any two Aldermen, without the Mayor or Recorder, may, on a statement of facts on oath, affording reasonable cause of suspicion, that gun powder has been brought or kept within the city, or its harbor, contrary to law, to issue their warrant, under hand and seal, to any sheriff, marshal, constable, or other fit person, to search for the same, in the day time, and to seize the same and have conveyed within twelve hours, in the day time, to any magazine used for storing gun powder, there to be detained unless ordered to be restored by the Mayor or Recorder, and two Aldermen, as aforesaid. (Act of April 20th, 1830, ch. 291, sec. 31, 32, 33, 36.)

Seizing gun powder.

This power and duty as to the search warrant, is conferred also upon any two of the special justices. (*Ibid*, sec. 32.)

(11.) The law assumes that the Aldermen, or some

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of them, will be present upon the breaking out of fires in the city, and the sheriff, deputy sheriffs, constables, and marshals, are required to be obedient to their orders in causing the persons attending the fire to work, and in preventing any goods or household furniture from being stolen; and in seizing all persons found stealing and pilfering; and in assisting the inhabitants in removing and securing their goods and furniture. (Act of April 9th, 1813, ch. 86, sec. 77.) The Mayor, or in his absence the Recorder, with the assent and concurrence of any two Aldermen, and any three Aldermen, without the presence of the Mayor or Recorder, may direct and order any building or buildings on fire, or any other buildings which they may deem hazardous, and likely to take fire, or to convey the fire to other buildings, to be pulled down or destroyed. And upon application of any person interested in such buildings so pulled down or destroyed, to any two Aldermen, it is made their duty to issue a precept for a jury to inquire of and assess the damages which the owner and all other persons interested therein have respectively sustained by the pulling down or destroying the same. So during the prevalence of the fire, each of the Aldermen may remove, or cause to be removed and kept away from the vicinity of the fire, all idle and suspicious persons, and all persons not fit to be employed, or not actually and usefully employed, in their judgment, in aiding the extinguishment of the fire, or in the preservation of property in the vicinity thereof. (Act of April 9th, 1813, ch. 86, sec. 81, 82.)

Duties at fires.

(12.) The overseers of the poor, with the consent, in writing, of the Mayor and Recorder, or either of them with one Alderman, or any two Aldermen, may bind out any child, who, or whose parent or parents, shall become chargeable to the city, or who shall have

Apprentices.

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been sent to any poor-house, to serve as clerk, apprentice, or servant, to any profession, trade, or employment. (R. S. vol. 2, 154, 155, sec. 1, 6.) And if any child so bound out shall refuse to serve, the master, provided he has not received, and is not entitled to receive any money as a compensation for instruction, may apply to the Mayor, Recorder, or any Alderman, who is authorized by warrant or otherwise, to send for the person so refusing, and if the refusal be persisted in, to commit, by warrant, such person to the bridewell, house of correction, or common gaol of the city, there to remain until such person will consent to serve according to law. (*Ibid*, p. 159, sec. 29, 33.) So on complaint on oath by any such master, touching any misdemeanor or ill behaviour of such person, to the Mayor, Recorder, and Aldermen, or to any two of them, it is made their duty to cause the person complained of to be brought before them, and to hear, examine, and determine the complaint. And if it be well founded, to commit, by warrant, the offender to the house of correction, or the common jail of the city, for any term not exceeding one month, there to be employed in hard labor, and to be confined in a room with no other person; or they may, by certificate under their hands, discharge the offender from his service, and the master from all obligation to such offender. (*Ibid* .sec. 30, 31.) And if any master be guilty of any cruelty, misusage, refusal of necessary provisions or clothing, or any other violation of the terms of the indenture or contract, or of the provisions of the statute, towards any person so bound to service, the latter may make complaint to the Mayor, Recorder, and Aldermen, or to any two of them, who shall summon the parties before them, and examine into, hear and determine the complaint, and by certificate under their hands, discharge such person from his service. (*Ibid*, sec. 32.)

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Where money was paid or agreed to be paid on such binding out, the person so bound to service, may make the like complaint of misbehaviour to the Mayor, Recorder or any Alderman, who are to proceed in the same manner and inquire into the matter, and make such order in the case as equity may require. And if the difficulty cannot be reconciled, to take a recognizance from the master, with such sureties as shall be approved of, to appear at the next general sessions of the peace. (*Ibid*, sec. 34, 35.) The master may also where any money was paid or agreed to be paid on such binding out, make the like complaint of misbehaviour of the person bound to service, and the magistrate shall proceed to inquire into the same, and may take a recognizance from the person bound to serve, for his appearance at the next general sessions. (*Ibid*, sec. 37.)

Coroner.

(13.) In case of the absence of the Coroner or his inability to attend, any Alderman or Special Justice may perform the duties appertaining to the office of Coroner, during such absence or inability. (R. S. Vol. 2, 743, sec. 9.)

But I need not enlarge on these duties, for the special justices are expressly vested with the powers which may be exercised out of the sessions by the Aldermen, not only in relation to cases of bastardy, and vagrants, and vagabonds, but in cases respecting apprentices and servants. (Act of April 9th, 1813, Ch. 86, sec. 41, 42.) And these magistrates in their police office afford the most convenient and suitable place to resort to, for redress in these matters.

I have now finished all that I have thought it requisite to state concerning the various powers and duties that may devolve upon the Aldermen in their character of justices of the peace. In all the cases mentioned, except as to that relating to fires, it would seem that the Special Justices have concurrent jurisdiction; and I consider that the most appropriate department of the city magis-

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tracy for all such business, is the police office of the special justices. They are salary officers, and are specially instituted to enforce the due observance and execution of all the ordinances and regulations of the city, and to take the incipient steps upon all the laws of the state for the preservation of the peace, and the suppression of crimes and all sorts of misdemeanors and disorders. They are organized tribunals, with Clerks, Marshals and Constables to attend them, and they can consequently perform the multifarious and vexatious duties of a justice of the peace, with facility, promptitude and despatch. It is their particular vocation. They are justices of the peace, in the most enlarged and active sense. (Act of April 9th, 1813, ch. 86, sec. 22 to 43.) The Aldermen have many other and greater duties to perform, and they ought to be and were intended to be, left in a great measure free, to bestow their time and attention to the more general and complex duties arising out of the legislation, care and government of the city. The establishment of the police department under the special justices, was a necessary and wise measure, considering the influx of all kinds of population to this city and commercial seaport. If the duty had remained where the charter had left it, in the hands of the Aldermen, it would have become so burdensome as to be absolutely intolerable; and we should have found in the end, that few, if any, persons of the requisite intellectual, moral and educated qualifications would have been willing to assume the trust. And when we come to consider the actual wants of great numbers, and the incessant temptations to heedless, and lawless pursuits, to pilfering, to intemperance, to disorders of all sorts, in such a dense population as exists in this city, and who are always, more or less under excitement, and the impulse of the collisions and the storms of the passions, we cannot but be deeply im-

Police Office.

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pressed with the importance to our peace and safety, of an active and stern police. It is the duty of the corporation and of all good citizens, to give the best encouragement and support to the special justices of the police department, and to their active and faithful subordinate officers.

[2.]—*As Judicial Magistrates.*

Special Sessions.

The Aldermen are judges of the courts of special sessions of the peace. They cannot hold any such court without the presence of the Mayor or Recorder, or first judge of the court of Common Pleas, and then any one of them with two of those higher magistrates, or any two of them with one of those magistrates, may hold the courts. (R. S. Vol. 2. 223.)

This duty is not thrown upon the Aldermen promiscuously, but the Common Council are to designate from time to time, the Aldermen who are to assist in such courts. (R. S. Vol. 2, 715, sec. 24.

General Sessions.

The Aldermen are also judges of the court of general sessions of the peace. They may be associated with the Mayor or Recorder, or the first judge, or the associate judge of the court of Common Pleas; and any two of them in connection with either of the above officers, or any one of them with any two of the above officers, may hold the court. Those courts are usually held by the Recorder and two Aldermen, and it is made the duty of two of the Aldermen to attend the court, when notified or required for the purpose, by the Mayor or Recorder. (R. S. Vol. 2. p. 216, 217, sec. 27, 30.)

The Aldermen are also judges of the courts of Oyer and Terminer and gaol delivery, in and for the city and county of New-York. They must be associated with one of the justices of the Supreme Court, or with one of the circuit judges, or with the first judge of the court

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of common pleas, and then any two of them with one of those judges, or any one of them with any such judge together with the Mayor or Recorder, may hold the court. (R. S. Vol. 2. 204, sec. 28.) There is no special provision that I am aware of, designating the Aldermen who are bound to attend. That must be settled by an agreement among themselves, or with the concurrence of the Mayor or Recorder, or a designation by the Common Council. Oyer and Terminer.

The Aldermen are also judges of the Courts of Common Pleas, in and for the city. But as either the first or the associate Judge, or the Mayor, or Recorder, may alone hold that court, it is not usual, nor necessary, nor understood to be the duty of any of the Aldermen, to attend that court, as used to be the case before the year 1797, under the charter. It is the special duty of the first Judge, and of the associate Judge, to hold the court, and it must be an extraordinary occasion that would recall the ancient duty of any of the Aldermen to attend the court as judges. (See *Supra.* p. 84, note 41. S. S.) Any Alderman may also waive his right to act as a judge of the Court of Common Pleas, while Alderman, and act as attorney or counsel therein, on filing, within ten days after he has taken the oath of office as Alderman, a declaration of such waiver. (Act February 23d, 1832, ch. 24.) Courts of Common Pleas.

[3] *As Charged with Executive Duties.*

It would be difficult to specify every particular act and deed, which an Alderman may be called upon officially to perform. I have endeavored to mention all the material duties which belong to the office.

(1.) The Aldermen together with the Mayor and Recorder are supervisors of the city and county. (R. S. vol. 1. 368, sec. 17.) This is a very important Supervisors.

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trust, and I shall give an outline of the duties attached to it, leaving the more minute details to be ascertained by a reference to the statutes which create them, and to which I shall refer.

By the act of April 9th, 1813, ch. 86, sec. 150–155, the Mayor, Recorder and Aldermen were directed to meet annually, at the city hall, on the second Tuesday of July, (since altered to the third Tuesday in August, by act of April 6, 1825, ch. 83, sec. 2,) and at such other times and places as they should find necessary, and examine and ascertain what sums of money were by law imposed upon the city in that year, for the maintenance of the poor, for defraying the contingent charge of the city, and for other purposes. They were then to cause the same to be raised, levied and collected in the same manner as the contingent charges in the other counties are directed to be levied and collected. The Chamberlain of the city is to account to the supervisors, and annually, between the third Tuesday in November, and the first Tuesday in December, and at such other times, and at such places as the said Mayor, Recorder and Aldermen should direct, to exhibit his books, accounts and vouchers to be examined and audited. Any four Aldermen together with the Mayor or Recorder make a competent Board of Supervisors, *in relation to taxes*, and all questions at any meeting are to be determined by the opinion of the majority of the members present. The statute of 1813, though still in force, except so far as it may have been controlled by subsequent statute provisions, gave only general directions in respect to the raising of taxes for the year, and much more specific directions (leaving the above still in force) were given by the acts of April 23d, 1823, ch. 262, and April 20, 1830, ch. 307.

By the act of 1823, sec. 20, the Mayor, Recorder and Aldermen were required to perform for the city, all the

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duties enjoined by the act, on the supervisors of the respective counties. Those duties, by that act, or the material part of them, as applicable to the city of New-York, were to receive from the Clerk of the city, the assessment rolls delivered to him by the assessors, and which are to be delivered to the clerk, on or before the first day of September, yearly, (see sec. 10,) and to receive also from the Chamberlain a list of the stockholders resident in the city, holding stock in incorporated companies out of the city, sent to him by the state treasurer, and the amount of stock held by each of them, and the amount of tax credited by the treasurer to the city on account of stock held by persons residing in the city. The supervisors are to apportion and credit to the several wards of the city such sum as they may be entitled to, in proportion to the aggregate amount of stock held or owned by stockholders residing in the several wards respectively, as nearly as may be, after deducting the amount of the city tax, levied upon and payable, or paid, by the several wards, so that each ward may be benefitted by such apportionment, in the same manner, as nearly as may be, as if such stockholders had been originally assessed in such ward, for the amount of stock held by them respectively. (Act of April 23d, 1823, ch. 262, sec. 16.) I have stated the substance of the section, as far as I understand it to be applicable to the city, but I am not certain that I have correctly understood it, and I must refer to the settled practice, if any there be, of the supervisors of the city, under it to correct me, if I am mistaken. (Act of April 23d, 1823, ch. 262, sec. 16.) The supervisors are to meet on the first Tuesday of October, yearly, and examine the assessment rolls of the several wards, and ascertain whether the several valuations in one ward bear a just relation to the valuations in all the wards of the city, and in their discretion to increase

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or diminish the aggregate valuations of real estate in any ward, by adding or deducting such sum upon the hundred as should, in their opinion, be necessary to produce a just relation between all the valuations of real estates in the city. (Acts of April 23d, 1823, ch. 262, sec. 19, and of April 20th, 1830, ch. 307, sec. 8.) And at their first meeting in October, in every year, and before the first day of November, to estimate and set down in the column left for that purpose, opposite to the several sums set down as the valuations of real and personal estates in the assessment rolls, the respective sums in dollars and cents, to be paid as a tax thereon. And shall also add up and set down the aggregate value of the real and personal estates in the several wards, and cause a certificate of the aggregate valuations to be transmitted to the Comptroller, and a corrected roll of each ward to be delivered to each of the Aldermen, and a corrected assessment roll of each ward to be delivered, on or before the fifteenth day of November, in each year, to the collectors respectively of each ward, with warrants annexed to the same under the hands and seals of a majority at least of the Board of Supervisors, directed to and requiring them respectively to collect from each person named, the sum opposite his name, and authorising them in case of any refusal or neglect to pay such sum, to levy the same by distress and sale of his goods and chattels. (Act of April 23d, 1823, ch. 262, sec. 19.)

The Revised Statutes, vol. 1. 365, concerning supervisors, declared (sec. 17.) that all the provisions of the article should be construed to extend to the Mayor, Recorder and Aldermen of this city as supervisors, *except where special provisions, inconsistent therewith, were or should be made by law in relation to this city.* The statute (R. S. vol. 1. 366, sec. 3) directs that the annual meeting of the board in each county (ex-

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cept in particular counties named,) should be on the first Tuesday in October. But we have seen that the supervisors in New-York, were to meet annually on the third Tuesday in August, to direct the sum to be raised and levied to meet the necessary charges and expenses of the city; and by the act of April, 1823, they were also directed to meet annually on the first Tuesday in October, to examine, correct and sanction the assessment rolls. These two different branches of duty would seem to require different, stated, annual meetings, and each appointed meeting ought to be complied with, and this will give effect to the different statute provisions on the point, and they are not inconsistent with each other.

The Revised Statutes (vol. 1. 366, sect. 4,) further declared, that the supervisors, at their annual or other meetings, should have power to make such orders concerning the corporate property of the county as they might deem expedient; to examine, settle and allow all accounts chargeable against the county, and to direct the raising of such sums as might be necessary to defray the same.

A majority of the supervisors constitute a quorum for the transaction of business. (*Ibid*, sect. 5.) We have already seen, that by the act of April, 1813, the Mayor, Recorder and four Aldermen were a competent quorum to do and perform every act "in relation to taxes," and so far, and so far only, the Revised Statutes, being inconsistent with that special provision, do not apply. The Board are to sit with open doors, and all persons may attend the meetings. (*Ibid*, sect. 6.) The supervisors, at each annual meeting, are to choose one of their number chairman for the year; (*Ibid*, sect 7.) But this provision is not consistent with that which had already made the Mayor or Recorder an essential member of the Board, and they are entitled *ex*

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officio to preside at the Board of Supervisors. Each annual Board of Supervisors is directed to appoint a clerk, to hold during pleasure; but the common clerk under the charter, (and who is now, after being stripped of much of his original duty, reduced down to be the clerk of the Court of Common Pleas) is still, by virtue of the charter, clerk of the Board of Supervisors. He is, in fact, the residuary legatee of all the *clerical* power and duties appertaining to the office of clerk under the charter, and not taken away by the constitution, or by subsequent acts. (See note 42, p. 74, T. T.)

Each member of the Board of Supervisors is allowed for his services and expenses in attending the meetings of the Board, at the rate of two dollars per day, and if any supervisor refuses or neglects to perform any of the duties required of him as a member of the Board, he forfeits for every offence $250. (R. S. vol. 1. 368, sect. 15, 16.) The provision for compensation cannot apply to the Mayor, for he has a salary by law, in lieu of all fees and perquisites, (*Vide Supra*, p. 66, note 38, P. P.)

Commissioners of Excise.

(2.) The Mayor, together with the Alderman and Assistant Alderman of each ward, are commissioners of excise for the ward, and they are to determine upon the propriety of issuing, and to issue and sign licenses to persons as they shall deem fit and proper, as venders or dealers of strong or spirituous liquors in the ward in which the Alderman and Assistant reside, or to keep an inn or tavern, or public ordinary or victualling house within the ward. They are the commissioners for collecting the duty of excise from such venders or dealers. No licenses are to continue and be in force for a longer term than the first day of May next succeeding the time they take effect; and none are to be granted but to persons of good moral character, and

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who are citizens of the United States, except that license may be granted to such persons as were licensed for the purpose on the 10th of April, 1824.

The Mayor, together with the Alderman and Assistant Alderman of the ward, may hear and determine, in a summary way, any complaint which may be preferred against any tavern-keeper, grocer, or keeper of any ordinary or victualling house, or public garden in the ward in which such Alderman and Assistant Alderman reside, for permitting riotous or noisy persons to be assembled in his house, out-house, garden or premises on Sunday; or who shall sell, or suffer to be sold, or exposed to sale on that day, any strong or spirituous liquors; or for permitting or suffering any excessive drinking, or persons to be drunk within such house, garden or premises; or who shall, on any day, permit any manner of unlawful gaming, quarrelling, or disorderly practice or conduct; or keeping any billiard table, or any other instrument or device for gaming; or knowingly harboring or entertaing persons of ill fame or character in any such house or premises. And in case they shall judge it proper, they may deprive every such person of his license.

The act of the majority of them is valid and sufficient in all such cases. (Act of April 10th, 1824, ch. 215, sect. 1, 7, 9; act of April 16, 1825, ch. 196; Charter, sect. 25, and note 39, Q. Q.; *Supra*, pa. 68.)

CHAPTER III.

OF THE POWER, DUTIES AND AUTHORITY OF THE ASSISTANT ALDERMEN.

The Assistant Aldermen form a co-ordinate and equal branch of the Common Council, under the name

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of the Board of Assistants. Their legislative powers as a Board, are in all respects the same as those of the Board of Aldermen, and they are detailed in the act of April 7, 1830, amending the charter.

The powers and duties of the Assistant Aldermen are almost exclusively legislative, and confined to the Board of Assistants. They are not magistrates, for they have no judicial and very little executive power. They are associated with the Mayor and the Alderman of the ward for which they are chosen Assistants, as commissioners of excise for granting licenses for vending strong and spirituous liquors within the ward, and for recalling the same for just cause. The exercise of this power was sufficiently considered when treating of the same power vested in the Aldermen.

I am not aware that the Assistant Aldermen have any other existing power whatever out of the Board of Assistants, founded upon the charter, or upon statute. The ordinances of the Common Council confer upon them some authority, such as settling, together with the Aldermen, disputes arising concerning partition fences and partition walls within the ward; and to be present at fires with the insignia of office, and to assist and give orders for the preservation of the peace, and the protection of property. (See Corporation ordinances, pa. 159, 160, 146, 148, edit. 1834.

The official duties of the Assistant Aldermen being essentially confined to the Board of Assistants, the office, I should suppose, would be pleasant and desirable to persons of leisure, of intelligence, and of disinterested zeal for the wise and just regulation of the public concerns of the city. The legislative powers of the Common Council assume a very grave importance, when we consider that their ordinances affect, much more than the whole legislation of the state, the infinitely diversified details of common business in

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this city, and the ordinary security and comforts of domestic life. Their local laws bear upon vast masses of property, and, in their operation, touch ten thousands springs of action.

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JOURNAL

OF THE

CONVENTION

FOR

REVISING AND AMENDING

THE CHARTER

OF THE

CITY OF NEW-YORK.

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ADVERTISEMENT.

The following Journal of the Proceedings of the Delegates from the several Wards of the City of New-York, which met in Convention, for the purpose of revising and amending the City Charter, is published in pursuance of a resolution of the Common Council of May 6th, 1835, in the following words, viz: "Resolved that the Clerk of the Common Council procure a copy of the Proceedings of the Convention for amending the Charter of the City of New-York, and that he furnish CHANCELLOR KENT with the same, to the end that it may be printed with the proposed new edition of the Charter."

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JOURNAL OF THE CONVENTION.

FOR REVISING AND AMENDING THE CHARTER OF THE CITY OF NEW-YORK.

AT a Meeting of Delegates from the several Wards of the City of New-York in Convention, for the purpose of revising and amending the City Charter, held in the Supreme Court room, at the city hall, in pursuance of a recommendation of the honorable the Common Council of said city, on Tuesday, the 23d day of June, in the year 1829.

The Clerk of the city and county of New-York attended with the returns of the election, filed in the office, by which it appears the following gentlemen are elected Delegates to this Convention.

FIRST WARD.	EIGHTH WARD.
Elisha Tibbits,	Stuart F. Randolph.
Thomas Bolton,	John Duer,
Joseph Meeks,	John Morss,
Mordecai M. Noah,	James Burling,
John Hone,	Robert Bogardus.

SECOND WARD.	NINTH WARD.
Saul Alley,	Thomas Morris,
John Leonard,	Francis Cooper,
Thomas H. Leggett,	Nathan T. Arnold,
Samuel Guilford, Jr.	Michael Burnham,
Benjamin Demilt,	Thomas Miller.

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THIRD WARD.	TENTH WARD.
Philip Hone,	Joseph Piggot,
Campbell P. White,	Stephen Allen,
*Peter Stagg,	Samuel Stilwell,
Garret Storm,	Nicholas Schureman,
Dudley Selden,	*John Fream,

FOURTH WARD.	ELEVENTH WARD.
Peter McCartee,	Reuben Munson,
Hubert Van Wagenen,	Charles Mills,
Eldad Holmes,	Cornelius Schuyler,
Richard S. Williams,	William Thompson,
Richard E. Mount,	Samuel Andries,

FIFTH WARD.	TWELFTH WARD.
*William Paulding,	Alpheus Sherman,
Gulian C. Verplanck,	Charles H. Hall,
John Van Buren,	William M. Johnson,
Jacob Lorillard,	Nathaniel Reynolds,
Gideon Tucker,	John R. Hedley,

SIXTH WARD.	THIRTEENTH WARD.
Peter A. Jay,	E. D. Comstock,
Denis McCarthy,	Nathaniel J. Boyd,
John M. Bradhurst,	Evert A. Bancker,
Henry H. Schieffelin,	*Charles Oakford,
Peter S. Townsend,	Joseph Johnson.

SEVENTH WARD.	FOURTEENTH WARD.
William Scott,	Isaac Emmons,
James R. Whiting,	William James Macneven,
*David Lyon,	Abraham Bloodgood,
Charles McEwen,	*Charles Town,
Effingham Scheffelin,	*Lambert Suydam.

Those marked with an asterisk did not attend.

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The Convention then proceeded to choose by ballot a President, and the ballots having been taken and counted, it appeared that William Paulding was duly elected, and he was placed in the chair accordingly.

Mr. President then arose and addressed the Convention in substance as follows:

GENTLEMEN,

I accept with pleasure of the honor you have conferred upon me, in choosing me to preside over your deliberations, and I tender to you my profound and grateful thanks for this distinguished proof of your confidence.

Sensible of the delicacy and difficulty of the duties of this high trust, I enter upon them with great solicitude, and a sincere desire to perform them faithfully, and with all the respect to your feelings and wishes that is consistent with a strict and impartial enforcement of the rules which ought to govern this convention.

The Convention then proceeded to chose by ballot two Secretaries, and the ballots having been taken and counted, it appeared that Nicholas Dean and Richard Hatfield were duly elected.

On motion of Mr. Bolton:

Jacob Hays was appointed Sergeant at Arms.

On motion of Mr. Cooper:

Ordered, That a committee be appointed to draft rules and orders to govern the proceedings of this Convention, and that the said committee consist of five, and be appointed by the chair.

Mr. President thereupon appointed Mr. Cooper, Mr. P. Hone, Mr. Morris, Mr. E. Scheffelin and Mr. Town to be the said committee.

Mr. Noah made a motion that the convention should agree to a resolution which was read, and is in the following words:

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"*Resolved*, That a committee of two persons from each ward be appointed to consider and report the manner in which it will be expedient to take up the business of this convention."

Thereupon, Mr Coopcr moved, that the said resolution be laid on the table. Debates were had thereon, and Mr. President put the question, whether the convention would agree to the said motion of Mr. Cooper, and it was determined in the affirmative.

On motion of Mr. Allen:

Resolved, That when this convention adjourn, it adjourn to meet again on Thursday next, at 5 o'clock in the afternoon.

On motion of of Mr. Duer:

Resolved, That a committee be appointed to obtain from the Common Council a copy of the charter of the city, and the laws relative thereto, together with a copy of such charters of other cities, or extracts therefrom, and such other documents in their possession as the said committee may deem expedient for the use of this covention.

Mr. President, thereupon, appointed Mr. Duer, Mr. Alley, and Mr. Selden, to be the said committee.

Mr. Hedley made a motion, that the convention should agree to a resolution, which was read, and is in the words following, to wit:

Resolved, That a committee be appointed to wait on the Corporation, for the purpose of requesting that this convention be furnished a proper room and conveniences for holding their sessions; and also to furnish the convention with such stationary and other expenses as may be necessarily incurred by them.

Ordered, that the said resolution be laid on the table.

Then the convention adjourned till Thursday next, at 5 o'clock in the afternoon.

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Thursday, 25th June, 1829.

The Convention met pursuant to adjournment, and at 5 o'clock the President took the chair.

Mr. Cooper, from the committee appointed to prepare rules and orders for the government of this convention, reported the following, which, on motion of Mr. Cooper, were passed upon separately, and, with some slight amendment, were adopted, as follows:

1. Upon the appearance of thirty-six members, the President, or, in his absence, the President pro tem., to be elected by the members present, shall take the chair, and the members be called to order.

2. Immediately after the president shall have taken the chair, the minutes of the preceding meeting shall be read by one of the secretaries, to the end, that any mistake therein may be corrected by the convention.

3. The President shall preserve order and decorum, and shall decide questions of order, subject to an appeal to the convention.

4. The President shall, in all cases, be entitled to one vote, and no more.

5. The President shall have power to assign places to the reporters of the proceedings of the convention.

6. Whenever the President may wish to leave the chair, he shall have power to substitute a member in his place: Provided that such substitute shall not continue beyond the day on which it is made.

7. Every member, previous to his speaking, shall rise from his seat, and address himself to the President.

8. When two or more members shall rise at once, the President shall name the member who is first to speak.

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9. No person shall speak more than twice to the same question, without leave of the convention, nor more than once, until every member choosing to speak, shall have spoken.

10. No question on a motion shall be debated, or put unless the same be seconded. When a motion is seconded, it shall be stated by the President before debate, and every such motion shall be reduced to writing, if any member desire it.

11. After a motion is stated by the President, it shall be deemed to be in the possession of the convention; but it may be withdrawn at any time before decision or amendment.

12. When a question is under debate, no motion shall be received, unless—1. To amend it.

2. To commit it.
3. To postpone it.
4. To lay it on the table.
5. To adjourn.

13. A motion to adjourn shall always be in order, and shall be decided without debate.

14. Every member who shall be present when a question is put, shall vote for or against the same, unless the covention shall excuse him.

15. A member called to order, shall immediately sit down, unless permitted to explain, and the convention, if appealed to, shall decide on the case, but without debate: if there be no appeal, the decision of the chair shall be submitted to.

16. All questions shall be put in the order they are moved, except, that in filling up blanks, the largest number, and the longest time, shall be first put.

17. The ayes and noes shall be called, and the names of those who vote for, and those who vote against, any question. shall be entered upon the minutes, whenever seven members shall require it.

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On motion of Mr. Selden, the 18th rule, as reported by the committee, was struck out; and on motion of Mr. Allen, the following was substituted in its place.

18. On motion made, and carried, the convention may form itself into a committee of the whole, when the President shall leave the chair, and a chairman be appointed. The rules observed in convention shall also be observed in committee, except that of taking the ayes and noes, and limiting the time of speaking.

19. No motion for reconsideration shall be in order, unless made by a member voting in the majority, and at the same meeting, or in pursuance of notice then given for the next meeting after that on which the decision proposed to be reconsidered took place, except by unanimous consent.

20. All committees shall be appointed by the President, unless otherwise ordered by the convention, and no report shall be received, unless the same be signed by a majority of the committee.

21. A motion for the order of the day shall take precedence of all other motions, and is to be considered immediately after the reading of the minutes and reports of committees.

22. The secretaries shall keep a list of the unfinished business of all reports of committees, in the order in which they occur, to be called the orders of the day, and the same shall have preference to all other business, immediately after the reports of standing and special committees.

The folllowing rule was, on motion of Mr. White, adopted:

23. The members of this convention shall not be addressed, in debate, by name.

Mr. Noah called for the consideration of the resolution offered by him at the last sitting of this convention,

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and then laid on table. Whereupon, the same being under consideration, Mr. Allen moved to strike out all the words of the said resolution after the word "Resolved." Debates were had thereon; and Mr. President having put the question, "Shall the same be stricken out?" it was carried in the affirmative.

Mr. White, thereupon, moved to insert in the said resolution, after the word "Resolved," the following words, to wit: "That the charter of this city be referred to a committee to take into consideration the expediency of making any, and if any, what alterations, or amendments therein; and to report such amendments as they may deem expedient, to this convention."

Debates were had thereon, and Mr. President having put the question, shall this Resolution pass, the same was determined in the negative.

Mr. Duer made a motion that the convention agree to a resolution offered by him in the words following: "Resolved, That in the opinion of this convention, the Common Council of this city ought to be divided into two houses or branches.

Debates were had thereon, but before any question was taken on the same, Mr. Noah moved that the convention adjourn till 4 o'clock to-morrow afternoon. Mr. President having put the question on adjournment, it was carried in the affirmative.

Whereupon the convention adjourned till Friday, 26th June, at 4 o'clock P. M.

Friday, June 26th, 1829.

The convention met pursuant to adjournment.

Mr. Allen offered, for the consideration of the convention, the following resolutions:

1st. *Resolved*, That in the opinion of this conven-

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tion, the Common Council ought to be divided into two boards or branches.

2d. *Resolved*, That one branch of the Common Council ought to consist of one person from each ward, with all the powers of an Alderman.

3d. That the board of Aldermen ought to be elected for three years, and that one third, as near as possible, ought to go out of office or be re-elected annually.

4th. That the other board ought to consist of two persons from each ward, with all the powers of Assistants.

5th. That the board of Assistants ought to be elected annually.

6th. That each board ought to appoint their own President and Clerk.

7th. That the two boards ought to act as separate bodies, possess a negative on each others proceedings, have concurrent powers, and together, be the Common Council of the city of New-York.

8th. That the Mayor, under proper regulations, ought to possess a negative on the laws passed by the Common Council.

9th. That in the event of the sickness or absence of the Mayor, the Common Council ought to have the authority to appoint a deputy Mayor,

10th. That no member of the Common Council ought to hold an office, the emoluments of which are to be paid from the city treasury.

11th. That all the rights, privileges, and immunities, now possessed by the corporation, from what source soever derived, ought to be vested in the board of Aldermen and Assistants, and their successors, by the name of The Mayor, Aldermen, and Commonalty of the city of New-York.

12th. That annual appropriations ought to be made by the Common Council for every object of expendi-

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ture; and no money ought to be drawn from the treasury except for the object it was previously appropriated for.

13th. That the duties of the Mayor ought to be designated and his powers enlarged.

He ought to possess the power of removing from office any of the watchmen, for neglect of duty, and to have a general supervisionary control over the police, and other departments of the city government.

14th. That the executive bssincss of the corporation ought to be performed by distinct departments, appointed and organized for the purpose.

15th. That the amount which the Common Council may borrow in any one year, except by act of the legislature, ought to be limited.

16th. That the accountability of all public officers ought to be provided for.

On motion of Mr. Morss, ordered that the said resolution be committed to a committee of the whole convention, and that the same be printed for the use of the convention.

Mr. Lorillard offered, for the consideration of the convention, the following resolutions:

1st. *Rseolved*, That it is expedient that a board of Representatives should be organized, consisting of as many members as there are now, or hereafter may be, Aldermen in the city, who shall consiitute a separate and distinct body, possessing legislative concurrent powers with the Mayor, Aldermen, and Commonalty of this city.

2d. *Resolved*, That the said board of Representatives ought to be chosen by a general ticket to fill vacancies; to be voted for annually, at the same time when the election for Aldermen and Assistant Aldermen is held.

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The term of service of the members severally to be fixed by ordinance of the Mayor, Aldermen, and Commonalty, with the concurrence of the board of Representatives, and should not be less than one year, nor more than years.

3d. *Resolved*, That to be eligible to hold a seat in the board of Representatives, it is requisite that every member

1st. Possess in his own right, free from every incumbrance, a freehold estate within the city and county of New-York, in the value of dollars.

2d. That he have attained the age of years previous to election.

3d. That he have been chosen by the electors of a ward within this city, or by the electors of the city and county, to some place of honor or trust.

4th. *Resolved*, That whenever the Mayor, Aldermen, and Commonalty, and board of Representatives disagree in any measure, it ought to be the duty of the Mayor, or in his absence the Recorder, to convene the Aldermen to meet with the board Representatives. The Mayor, or in his absence the Recorder presiding, and with the board of Representatives, to decide, without debate, the subject of disagreement; the presiding officer having only a casting vote.

5th. *Resolved*, That public notice having been given at least three months previous to an annual election of members of the Common Council, whenever two thirds of the Aldermen, two thirds of the Assistant Aldermen, and two thirds of the members of the board of Representatives, with the concurrence of the Mayor, shall vote in favor of any alteration of the charter of this city, and the legislature grants an act or acts confirming the same, such alteration should, in the opinion of this convention, become part of the charter of this city.

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Ordered, That the said resolutions of Mr. Lorillard be also committed to a committee of the whole.

On motion of Mr. Allen, the convention resolved itself into a committee of the whole on the first resolution offered by Mr. Allen. And after some time spent thereon, Mr. President resumed the chair and Mr. P. Hone, from the said committee, reported: That they had had under consideration the said resolution, and agreed to the same without amendment, which he was directed to report to the convention; and he read the report in his place, and delivered the same in at the table where it was again read.

Mr. President put the question whether the convention would agree with the report of the committee, and it was determined in the affirmative.

The ayes and noes being required by seven members, were as follows:

AYES.—Messrs. Tibbits, Meeks, Noah, J. Hone, Alley, Leonard, Leggett, Gilford, Demilt, P. Hone, White, Storm, Selden, McCartee, Van Wagenen, Holmes, Williams, Mount, President, Verplanck, Van Buren, Tucker, McCarthy, H. H. Schieffelin, Townsend, Duer, Morss, Burling, Morris, Cooper, Burnham, Miller, Allen, Stilwell, Munson, Andries, Sherman, W. M. Johnson, Reynolds, Hedley, Boyd, Bancker, J. Johnson, Emmons, Macnevin, Bloodgood, Suydam.

NOES.—Messrs. Lorillard, Scott, Whiting, McEwen, Piggott, Schureman, Schuyler, Thompson.

On motion of Mr. White:

Ordered, That the committee of the whole be discharged from the further consideration of the remaining resolutions offered by Mr. Allen, and the resolutions offered by Mr. Lorillard, and that the same be referred to a select committee consisting of Mr. White, Mr. Bolton, Mr. Leonard, Mr. Holmes, Mr. Verplanck, Mr. Jay, Mr. Whiting, Mr. Duer, Mr. Morris, Mr. Allen, Mr.

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Munson, Mr. Sherman, Mr. Bancker, and Mr. Macnevin.

Mr. Alley made a motion that the President of this Convention should be added to the committee. The question having been put by Mr. Dean, one of the secretaries, it was unanimously determined in the affirmative.

On motion of Mr. P. Hone:

Resolved, That when this Convention adjourn, it do adjourn to meet again on the second Monday in July next, at 4 o'clock in the afternoon.

Mr. P. Hone offered for the consideration of the Convention, a resolution which was read, and is in the words following, to wit:

Resolved, That it is expedient to apply to the legislature for an alteration of the laws of the state, so as to admit of the charter election in this city being held at a time different from that of the general state election.

Ordered, That the said resolution be referred to the same committee to whom were referred the resolutions of Mr. Allen and Mr. Lorillard, and of which Mr. White is chairman, and that the same be printed.

Then the Convention adjourned till the 13th day of July next, at 4 o'clock in the afternoon.

Monday, 13th July, 1829.

The Convention met pursuant to adjournment.

In the absence of the President, on motion of Mr. Alley, Mr. P. Hone was chosen President pro tempore, and took the chair accordingly.

The minutes of the last meeting were read and approved.

Mr. President then appeared and took the chair.

Mr. White from the committee to which was referred the several resolutions offered at the last sitting of the

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Convention by Mr. Allen, Mr. Lorillard and Mr. Hone, reported as follows:

The committee having maturely considered the matters submitted to them, are of opinion that the interests and welfare of the inhabitants of this city, will be greatly promoted by certain alterations in the constitution and powers of the city government; and that for the purpose of obtaining those amendments in the charter, which to your committee have seemed expedient, an application ought to be made to the legislature of this state, in the name of the people of this city, for the passage of a law, embracing substantially the following provisions:—

Sec. 1. The legislative power of the city of New-York shall be vested in a Board of Aldermen, and a Board of Assistants, who, together, shall form the Common Council of the city, and shall possess all the rights, powers, privileges and immunities, which by law now are, or hereafter shall be, vested in the corporation of the said city.

Sec. 2. Each ward of the city shall be entitled to elect one person to be denominated the "Alderman" of the Ward, and the persons so chosen, together, shall form the Board of Aldermen; and each ward shall also be entitled to elect two persons to be denominated "Assistant Aldermen," and the persons so chosen, together, shall form the Board of Assistants.

Sec. 3. The Aldermen shall be chosen for three years; the Assistant Aldermen for one year; and no person shall be eligible to either office who shall not at the time of his election be a resident of the ward for which he is chosen.

Sec. 4. At the first meeting of the Board of Aldermen, after the first election of Aldermen, subsequent to the passage of this law, they shall cause the Aldermen elected, to be divided into three classes, each class con-

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taining, as nearly as may be, the same number; the classes to be numbered one, two, three. The seats of the first class shall become vacant at the end of the first year, of the second at the end of the second year, and of the third at the end of the third year, so that one-third, as nearly as may be, of the whole number of Aldermen, shall thereafter be annually elected.

Sec. 5. The Board of Aldermen shall have power to direct a special election to be held, to supply the place of any Alderman whose seat shall become vacant by death, removal from the city, resignation or otherwise. If a special election be not directed, the vacancy shall be supplied at the next general election. The person elected to supply such vacancy shall hold his seat only for the residue of the term of office of his immediate predecessor.

Sec. 6. The boards shall meet in separate chambers, and a majority of each shall be a quorum to do business. Each board shall choose its own president, clerk, and other officers, determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each board shall keep a journal of its proceedings, and the doors of each shall be kept open, except when the public welfare shall require secrecy.

Sec. 7. Each board shall have authority to compel the attendance of absent members, to punish its members for disorderly behaviour, and to expel a member with the concurrence of two thirds of the members elected to the board, and the member so expelled shall by such expulsion forfeit all his rights and powers as an Alderman or Assistant Alderman.

Sec. 8. The stated and occasional meetings of the Common Council shall be regulated by their own ordinances, and both boards may meet on the same, or on different days, as they may judge expedient.

Sec. 9. Any law, ordinance or resolution of the Com-

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mon Council, may originate in either board, and when it shall have passed one board, may be rejected or amended by the other.

Sec. 10. No member of either board shall, during the period for which he was elected, be competent to hold any office of which the emoluments are paid from the city treasury, or by fees directed to be paid by any ordinance or act of the Common Council.

Sec. 11. Every act, ordinance or resolution which shall have passed the two boards of the Common Council, before it shall take effect, shall be presented duly certified to the Mayor of the city, for his approbation. If he approve he shall sign it, if not, he shall return it with his objections, to the board in which it originated, within ten days thereafter, or if the Common Council be not then in session, at their next stated meeting. The board to which it shall be returned shall enter the objections at large on their journal, and cause the same to be published in one or more of the public newspapers of the city.

Sec. 12. The board to which such act, ordinance or resolution shall have been so returned, shall, after the expiration of not less than ten days thereafter, and not sooner, proceed to re-consider the same. If after such re-consideration, a majority of the members elected to the board shall agree to pass the same, it shall be sent, together with the objections, to the other board, by which it shall be likewise re-considered, and if approved by a majority of all the members elected to such board, it shall take effect as an act or law of the corporation. In all such cases the votes of both boards shall be determined by yeas and nays, and the names of the persons voting for and against the passage of the measure re-considered, shall be entered on the journal of each board respectively.

Sec. 13. If the Mayor shall not return any act ordi-

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nance or resolution so presented to him, within the time above limited for that purpose, it shall take effect in the same manner as if he had signed it.

Sec. 14. In addition to their Legislative powers, the Aldermen and Assistant Aldermen shall severally possess all the rights and powers, which by law uow are, or hereafter shall be annexed to their respective offices.

Sec. 15. Neither the Mayor or Recorder of the city of New-York, shall hereafter be members of the Common Council thereof.

Sec. 16. The Mayor of the city of New-York shall be appointed by the Common Council, in the same manner in which Senators in Congress are now directed by law to be appointed by the Legislature.

Sec. 17. The Common Council may also appoint in the same manner, a suitable person as Deputy Mayor, whenever the Mayor snall be absent from the city, or shall be prevented by sickness from attending to the duties of his office. The person so appointed, shall possess all the rights and powers of the Mayor, during the continuance of such disability or absence of the Mayor.

Sec. 18. It shall be the duty of the Mayor:

First.—To communicate to the Common Council, at least once a year, and oftener if he should deem it expedient, a general statement of the situation and condition of the city. in relation to its government, finances and improvement.

Second.—To recommend to the adoption of the Common Council, all such measures connected with the police, security, health, cleanliness and ornament of the city, and the improvement of its government and finances, as he shall deem expedient.

Third.—To be vigilant and active in causing the laws and ordinances for the government of the city to duly executed and enforced.

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Fourth.—To exercise a constant supervision and control over the conduct and acts of all subordinate officers, and to receive and examine into all such complaints as may be preferred against any of them for violations or neglect of duty.

Sec. 19. The Mayor shall appoint the Inspector of hackney coaches, the Street inspectors of the respective wards, and the Captains and Assistant Captains of the the city watch, and he shall nominate, and with the consent of the Board of Aldermen, shall appoint all other officers, whose offices are created by the corporation, or of whom the appointment by law, is, or shall be vested in the said corporation.

Sec. 20. The Mayor shall have power to remove any officer appointed by him, or by him with the consent of the Board of Aldermen; but whenever a removal is made, it shall be his duty, if required, to communicate to the Common Council the reasons on which such removal was founded.

Sec. 21. In addition to those enumerated in the preceding Sections, the Mayor shall perform all such acts and duties, as are or shall be required of him by the charter of the city, the acts of the Legislature and the ordinances of the Common Council.

Sec. 22. Annual and occasional appropriations shall be made by proper ordinances of the Common Council for every branch and object of city expenditure, nor shall any monies be drawn from the City Treasury except the same shall have been previously appropriated to the purpose for which it is drawn.

Sec. 23. The executive business of the corporation of New-York, shall thereafter be performed by distinct departments, which it shall be the duty of the Common Council to organize and appoint for that purpose. The departments so to be organized, shall be respectively denominated, the city Commissioner's Department, the

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Finance Department, the Treasury Department, the Alms House Department, and the Fire Department.

Sec. 24. It shall be the duty of the Common Council to provide for the accountability of all officers and other persons, to whom the receipt or expenditure of the funds of the city shall be entrusted, by requiring from them sufficient security for the performance of their duties or trust.

Sec. 25. Such parts of the charter of the city of New-York, and of the several acts of the Legislature, amending the same, as are not inconsistent with the provisons of the law, shall not be construed as repealed, modified, or in any manner affected thereby, but shall continue and remain in full force.

All which is respectfully submitted.

CAMPBELL P. WHITE,
STEPHEN ALLEN,
JNO. DUER,
JNO. LEONARD,
THOS. BOLTON,
REUBEN MUNSON,
E. A. BANCKER,
J. R. WHITING,
WM. JAS. MACNIVAN,
PETER AUGUSTUS JAY,
THOMAS MORRIS.

Which being twice read, was, on motion of Mr. White, committed to a Committee of the whole house and two hundred copies ordered to be printed for the use of the members.

On motion of Mr. Duer, Resolved, that Mr. Allen, a delegate from the 10th Ward, be requested to furnish to the Secretaries of this convention, a plan for the organization of the departments mentioned in the 23rd Section of the preceding Report of the Committee, of which Mr. White is Chairman, and that the like num-

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ber of 200 copies be printed for the use of the members.

On motion of Mr. Alley, ordered, that the two following resolutions be committed to a Committee of the whole house and printed for the use of the members.

Resolved, That it is expedient to apply to the Legislature for an alteration of the laws of the state, so as to admit of the Charter Election in this city being held at a time different from that of the General State Election.

Resolved, That in case the charter election should be so altered as to be held at a time different from that of the general election, that it be held but one day, and that the wards be divided into three districts.

On motion of Mr. Cooper, Resolved, that a Committee of three be appointed to provide a suitable and convenient place for the sittings of this convention, whereupon, Mr. Cooper, Mr. Whiting and Mr. Alley were appointed such committee.

Mr. P. Hone moved that the convention agree to a Resolution offered by him in the words following,

"*Resolved.* That the committee of the whole be discharged from the consideration of such resolutions as relate to the time and manner of holding the charter election, and that the same be referred to a special committee to report a plan in relation thereto."

Debates were had thereon, and Mr. President having put the question, shall this resolution pass, it was determined in the affirmative, and that the special committee consist of five, whereupon Mr. P. Hone, Mr. Alley, Mr. McEwen, Mr. Morss, and Mr. Hedley were appointed such committee.

Mr. Noah offered to the consideration of the convention a copy furnished by the Secretary of State, of the original charter of this city, granted in council at Fort

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Amsterdam, the 2d of February 1657, which was read in the following words.

FEBRUARY 2, 1657—FRIDAY.

Whereas, agreeably to the privileges of this city, annually some of the Magistrates whose time is expired, leave their seats to be replaced with others by the Director General and Council, so is it that the Director General and Council in N. Netherland, elected as magistrates of this city for the ensuing year, the Hon. Allard Antony, as old Burgomaster, Paulus Limdertson Van de Grift, Burgomaster, William Beeckman, President Schepen, Johannes De Peyster, Govert Lockermans, Adrian Blommert, and Hendrick Janssen Vandervin, Schepens, which is communicated to the community to treat them with due respect.

Done in Council, in Fort Amsterdam, N. Netherland, on the day as above.

The Director General and Council, in New Netherland, to all who shall see, or hear this read—Greeting:

Be it known—

That they, in consideration of the several faithful and voluntary services, in expeditions as otherwise, and submission to burthens of the citizens in this city, and in the hope and confidence which the Director General and Council are yet fostering, that they will contiue in the same loyal conduct, on the humble petition of the burgomasters and schepens, resolved to privilege the citizens and good inhabitants of this city with the distinguished favor of a great and small citizenship, (groot aen slein burgerrecht) so as appears by the act of this privilege, granted for this purpose to the burgomasters and schepens, in amplification of former

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ones, as it is explained in said act: And, whereas, in all beginnings, any thing or person must be the first, so that afterwards a distinction may take place, so, too, it must take place in establishing the great and small citizenship. On which the burgomasters and schepens requested in their petition to the Director General and Council, a further explanation who actually should be placed among and considered as great or small citizens. As the necessity of this distinction is grounded in reason, so is it that the Director General and Council in New Netherland qualify, now, and favor all such of the inhabitants with the great citizenship.

First—All those who have been members of the Supreme Government, or who are it actually with their descendants in the male line.

Secondly—All who have been, or are yet, burgomasters and schepens in this city, with their descendants in the male line.

Thirdly—The ministers of the gospel, who have been, or are yet, in function, with their descendants in the male line.

Fourthly—All the officers of the militia, from the staff to the ensigns, included, with their descendants in the male line—well understood, that the aforesaid persons shall not be understood to have lost for themselves or their descendants, by their absence from this city, or not keeping fire or light, this privilege of their great citizenship, in conformity to the laudable customs of the city Amsterdam in Europe.

Further—All other persons who desire and are inclined to be ranked among the great citizens, and to enjoy their privileges and benefices, may, in conformity of this act, become that privilege, by addressing themselves to the burgomasters and schepens, provided they pay for it the sum of fifty gl. of Netherland coinage, or its equivalent—(£8 6 8.)

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With the small citizenship are favored and qualified:

First—All such as resided within this city during a year and six weeks, and kept their fire and light.

Secondly—All born within this city.

Thirdly—All who have married daughters of citizens who have been born in this city; all who might marry these in future, and will, that aforesaid citizenship shall not be lost by absence from this city, or by not keeping fire and light in conformity as before.

Further—All others who have opened store in this city, under what name it might be, or who follow this business within this city or its jurisdiction: Provided, that all such persons shall have previously addressed the burgomasters for this privilege, and paid for it twenty gl. Netherland coin, or its equivalent—(£3 6 8.)

All tradesmen may follow and exercise their craft, if they have previously solicited and obtained their citizenship; all pensioned ministers of the company, all passengers and strangers, who intend to settle in the country—provided they effect this within six weeks.

The money to be obtained from this source, the obtaining of the citizenship, shall be received by the burgomasters, to be administered by them, and chiefly employed in the fortification of this city.

All which, that it may be carried into practice in better order, so is it that the burgomasters are commanded and authorised to prepare, as soon as it possibly can be effected, correct lists of all such, who, agreeably to the tenor of this act, have been qualified and favored with the great or small citizenship, so, too, who in future might obtain this privilege, and to keep correct registers of it, so that they can, whenever it is required, deliver of these faithful copies at the secretary's office of the Director General and Council.

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Done, declared, resumed and resolved, in the meeting of the Director General and Council in N. Netherland, in Fort Amsterdam, in N. Netherland.

P. STUYVESANT,
NICASURS DE SELLE,
PETER TONNEMAN.

Follows the petition on which the preceding act was granted:

COPY.

To the Right Honoroable the Director General and Council, in N. Netherland:

NOBLE AND RESPECTFUL LORDS—

Whereas, it has pleased your Honors, to favor the city of Amsterdam, in N. Netherland, with the privilege of a small and great citizenship, so is it that we burgomasters and schepens of this city, for the welfare of the community, acknowledging this favor with thankfulness, solicit your Honors' explanation what persons are to enjoy the small and who are qualified for the great citizenship; and we request that it may please your Honors to favor the sheriff, burgomasters and schepens who are now acting in this city, or who were before among its magistrates, or who shall at the next election be chosen, with their descendants, with the privilege of the great citizenship.

Expecting, on this petition,
Your Honors' favorable disposition,
We remain,
(Lower Stood)
Your Honors' obedient,
The Burgomasters and Schepens of the city of Amsterdam, in N. Netherland. (Lower Stood.)

By order of them, and signed,
JACOB KIP, Secretary.

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In the margin—

Done 31st January, in the meeting at the City Hall, in Amsterdam, in N. Netherland."

Whereupon, on motion of Mr. Noah, ordered that the same be laid on the table.

On motion of Mr. Mount,

Resolved, That the reporters to the convention have the opportunity afforded them of copying the report made by the Committee of Fourteen, that they may have the means of publishing it in their respective papers, for the information of the citizens.

And the convention then adjourned till Monday next, at 4 o'clock in the afternoon.

Monday, July 29, 1829.

The convention met, pursuant to adjournment.

The minutes of the previous meeting were read and approved.

Mr. Cooper, from the committee appointed to provide a suitable place for the meeting of the convention, reported, that the committee had obtained permision for their meeting in the Sessions Court Room.

Mr. Cooper offered, for the consideration of the convention, a resolution, in the words following, to wit:

Resolved, That the members of the Corporation, members of Congress, members of the Legislature, and Judges of the several courts, be admitted within the bar, and furnished with seats.

Mr. President put the question whether the convention would agree to said resolution, and it was determined in the affirmative.

Mr. P. Hone, from the committee to whom was referred certain resolutions relating to the time of holding the charter elections in this city, reported as follows, to wit:

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That, in the opinion of this committee, the amalgamation of the election of charter officers with that of the officers of the State Government in the general election in the month of November, is calculated to impair its importance in the minds of the citizens, and to endanger its purity, by the facility with which the essential qualification of a legal residence within the respective wards may be frustrated or avoided. The magnitude and importance of the municipal concerns of the city seem to your committee to demand a greater share of deliberation in the choice of those persons who are to administer them than can be reasonably expected during the excitement of a great political election, and that object can only be attained by holding the charter elections at a different period, and under different regulations.

Impressed with the importance of this subject, the committee would recommend that the following additional sections be incorporated in the law, for the passage of which the convention are about applying to the legislature.

1st. The annual election for charter officers shall be held on the second Tuesday in April, and the officers elected shall be sworn into office on the second Tuesday in May thereafter.

2d. The first election for charter officers after the passage of this law, shall take place on the second Tuesday in April, 1831; and all those persons who shall have been elected under the former laws regulating the election of charter officers, and shall be in office at the time of the passage of this law, shall continue in office, or hold over, until the officers elected under this law shall be entitled to be sworn into office.

3d. The Mayor of the city and all other officers who are appointed by the Common Council, and

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whose term of office would, by the existing laws, expire before the first Tuesday in May, 1831, shall be entitled to continue in office, or hold over, until that time, or until others are appointed in their places.

4th. All the provisions of any of the existing laws of the State, which may be inconsistent with the provisions of this law, shall be, and the same are hereby repealed.

All which is respectfully submitted.

New-York, July 20, 1829.

PHILIP HONE,
JOHN MORSS,
CHARLES M'EWEN,
JNO. R. HEDLEY,
SAUL ALLEY.

On motion of Mr. P. Hone, ordered that the said report be committed to a committee of the whole, and that the same be printed for the use of the convention.

The convention then resolved itself into a committee of the whole, on the report of the committee to whom the resolution declaring the sense of the convention that the Common Council of the city ought to be divided into two boards or branches, and also certain resolutions submitted by Messrs. Allen, Lorillard, and P. Hone, respectively, were referred, with instructions to report such amendments to the charter of the city as they might deem expedient; and after some time spent thereon, Mr. President resumed the chair, and Mr. P. Hone, from the said committee, reported progress, and asked for and obtained leave to sit again.

Then the convention adjourned till 4 o'clock tomorrow afternoon.

TUESDAY, 21ST JULY, 1829.

The convention met pursuant to adjournment.

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On motion of Mr. Duer, ordered, that the amendment to the report of the committee, offered yesterday, when in committee of the whole, by Mr. Verplanck, be printed for the use of the members.

On motion of Mr. Allen, the convention then resolved itself into a committee of the whole, Mr. P. Hone in the chair, on the report of the committee of fourteen, of which Mr. White is chairman.

The committee had under consideration the 3d section of said report, when Mr. Townsend moved that the words "three years" in the first line of that section be stricken out, and the words "one year" be inserted therein.

Debates were had thereon, when the chirman put the question on Mr. Sherman's motion to strike out, and insert, and the same was determined in the negative.

Mr. Hedley then moved that the question be divided and that it be first taken on striking out the word "three." Debates were had thereon, and the chairman having put the question on striking out, it was carried in the affirmative.

Mr. Hedley moved that the blank be filled with the word "two."

The chairman put the question on filling the blank with "two," and it was carried in the affirmative.

The chairman then read the whole section as amended in the words following: "Sec. 3. The Aldermen shall be chosen for two years; the Assistant Aldermen for one year; and no person shall be eligible to either office, who shall not at the time of his election, be a resident of the ward for which he is chosen." And having put the question, shall this section pass, the same was determined in the affirmative.

On motion of Mr. Hedley the committee then rose,

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and Mr. President having resumed the chair, Mr. P. Hone, from the said committee, reported progress, and asked for and obtained leave to sit again.

Mr. Arnold offered the following resolution:

"*Resolved*, That in the opinion of this convention, "the Mayor of the city of New-York ought to be "chosen directly by the people thereof; and that the "legislature of this State be requested in the name of "the people of this city, to recommend and to adopt "the requisite measures on their part, for effecting "such an alteration in the constitution of the State as "will secure to the people the right of such election."

Ordered that the same do lie upon the table.

And the convention then adjourned till to-morrow afternoon at 4 o'clock.

WEDNESDAY, JULY 22d, 1829.

The convention met pursuant to adjournment.

The minutes of yesterday were read and approved.

On motion of Mr. White, the convention then again resolved itself into a committee of the whole on the unfinished business of yesterday, being the report of the committee of fourteen, and after some time spent thereon Mr. President resumed the chair, and Mr. P. Hone, from the said committee, reported that in proceeding on the fourth section of the said report, Mr. Mount made a motion that the committee should agree to a substitute for the said section, which was read, and is in the following words, to wit:

"At the first meeting of the board of Aldermen after the first election of Aldermen, subsequent to the passage of this law, they shall cause the Aldermen elected to be divided into two classes, each class containing as nearly as may be, the same number. The classes to be numbered, one, two. The seats of the

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first class shall become vacant at the end of the first year, and of the second, at the end of the second year. So that one half, as near as may be, of the whole number of Aldermen, shall thereafter be annually elected.

That the chairman put the question, whether the committee would agree to the same; it was determined in the affirmative.

That in proceeding on the fifth section of the said report, the same was read in the words following, to wit:

The board of Aldermen shall have power to direct a special election to be held, to supply the place of any Alderman whose seat shall become vacant by death, removal from the city, resignation, or otherwise. If a special election be not directed, the vacancy shall be supplied at the next general election. The person elected to supply such vacancy, shall hold his seat only for the residue of the term of office of his immediate predecessor. That Mr. Allen made a motion to strike out the words "board of Aldermen," in the first line of the said section, and to insert in lieu thereof, the words "Common Council." That debates were had on the said motion of Mr. Allen; that the question having been put, whether the committee would agree to the same, it was determined in the affirmative. That Mr. Allen made a motion to insert after the word "Alderman," in the second line of the said section, the words "or Assistant." That debates were had thereon, and the question having been put, whether the committee would agree thereto, it was determined in the affirmative. That Mr. Allen made a motion to insert after the word "vacancy," in the fifth line of the said section, the words "in the board of Aldermen." That Mr. Morss then made a motion that the committee should agree to reconsider their

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vote on the different motions of Mr. Allen; and the question having been put on the said motion of Mr. Morss, it was determined in the affirmative. That the chairman then put the question, whether the committe would agree to the first motion of Mr. Allen, to strike out the words "board of Aldermen," it was determined in the negative. That Mr. Morss made a motion to insert after the word "election," in the fourth line of the said section, the following: "And the board of Assistants shall also have power to direct a special election to supply any vacancy that may occur in the board of Assistants." That the question on adopting the same, was determined in the affirmative.

That the chairman then put the question whether the committee would agree to the said section as amended, and it was decided in the affirmative.

Mr. P. Hone further reported that in proceeding on the sixth section of the said report, the same was read in the words following, to wit:

The boards shall meet in separate chambers, and a majority of each shall be quorum to do business. Each board shall choose its own president, clerk and other officers, determine the rules of its own proceedings and be the judge of the qualifications of its own members. Each board shall keep a journal of its proceedings and the doors of each shall be kept open, except when the public welfare shall require secrecy.

That Mr. Duer made a motion to strike out of the said section the words "choose its own president," in the second line, and insert the words "appoint a president from its own body, and shall also choose its"; that the question having been put whether the committee would agree to the same, it was determined in the affirmative.

That Mr. Whiting made a motion to insert after the word "proceedings" in the fifth line, the words "and

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cause the same to be published by the clerk." Debates were had thereon, and the question having been put whether the committee would agree to the same, it was determined in the negative. That Mr. Piggott made a motion to insert after the word "proceedings" in the fifth line the words "and such proceedings shall be subject to the inspection of any citizen." Debates were had thereon, and the question having been put whether the committee would agree thereto, it was determined in the negative.

That Mr. Whiting made a motion to strike out of the said section the words "*except when the public welfare shall require secrecy.*" Debates were had thereon, and the question having been put whether the committee would agree to the said motion, it was determined in the negative. That the section, as amended, was read and is in the words following, to wit: "The boards shall meet in separate chambers, and a majority of each shall be a quorum to do business. Each board shall appoint a president from its own body, and shall also choose its clerk and other officers, determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each board shall keep a journal of its proceedings, and the doors of each shall be kept open, except when the public welfare shall require secrecy.

That the question was then put whether the committee would agree to the said section as amended, and it was determined in the affirmative.

Mr. P. Hone further reported progress, and asked for and obtained leave to sit again.

Mr. Alley offered for the consideration of the Convention, a resolution, which was read, and is in the following words.

Resolved, That at our next annual election there shall be a ballot box provided in each ward to receive

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the votes for three members from each ward to a city convention; but no member of the city council or other officers of the corporation shall be eligible as a delegate to the said convention. The said delegates shall meet on day following, and assent to, and adopt, or dissent from, or reject, such parts of the charter as amended by this convention, as they may deem expedient, and they shall return in writing a statement of their proceedings to the Common Council of the city and a duplicate to the Register of the county, to be kept as their public record. It then shall be the duty of the aforesaid convention to apply to the legislature of the state to ratify, by their act, that which may be thus confirmed by our fellow citizens.

Ordered, That the same do lie upon the table, and that the usual number of copies be printed for the use of this convention.

Mr. Van Buren offered, for the consideration of the convention, a resolution, which was read, and is in the words following:

Resolved, That the amendments of the charter of the city, whenever finally agreed upon by this convention, shall be submitted to the people at the general election, to be held in November next, which vote shall be final to accept or reject the same.

Ordered, That the same do lie upon the table.

Mr. P. Hone made a motion that when this convention adjourn, it do adjourn to meet again on Monday next. Mr. President put the question whether the convention would agree to the said motion, and it was determined in the negative.

On motion of Mr. Mount, the convention adjourned till 4 o'clock to-morrow afternoon.

THURSDAY, 23D JULY, 1829.

The convention met pursuant to adjournment.

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The minutes of yesterday were read and approved.

Mr. Townsend offered a resolution in the words following:

Resolved, That the clerks communicate to the Secretary of State, at Albany, the thanks of this convention for the document transmitted by him to this house, taken from the Dutch records, and that the Secretary be requested to furnish copies of any other ancient documents in his possession, which he may deem useful to this convention. And Mr. President having put the question shall the resolution pass, the same was determined in the affirmative unanimously.

On motion of Mr. White the convention then resolved itself into a committee of the whole, Mr. P. Hone in the chair, on the report of the committee of fourteen.

The committee had under consideration the 7th section of said report.

Mr. McEwen moved that the whole section after the first line be stricken out.

Debates were had thereon, when Mr. McEwen withdrew his motion.

Mr. Piggott moved that the whole section be stricken out.

The chairman having put the question on striking out the whole section, the same was determined in the negative.

The chairman then read the section as reported by the committee, in the words following:

Sec. 7. Each board shall have authority to compel the attendance of absent members, to punish its members for disorderly behaviour, and to expel a member with the concurrence of two thirds of the members elected to the board, and the member so expelled shall, by such expulsion, forfeit all his rights and powers as an Alderman or Assistant Alderman; and having put the question, shall this section pass, the same was determined in the affirmative.

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The chairman then read the 8th section as reported by the committee, in the following words:

Sec. 8. The stated and occasional meetings of the Common Council shall be regulated by their own ordinances, and both boards may meet on the same, or on different days, as they may judge expedient; and having put the question, shall this section pass, the same was determined in the affirmative.

The chairman then read the 9th section as reported by the committee, in the following words:

Sec. 9. Any law, ordinance or resolution of the Common Council, may originate in either board, and when it shall have passed one board, may be rejected or amended by the other.

Mr. Duer offered the following additional section to come in between sections 9 and 10, as reported by the committee: "Every law, ordinance or resolution which shall be introduced in either board, and also every report of a committee recommending any public improvement, or any appropriation of the public monies, shall be published without delay in all the newspapers employed by the Corporation.

Mr. Noah offered the following amendment:

"And all reports of committees which shall recommend any specific improvement, involving the appropriation of public moneys, or taxing or assessing the citizens of said city, shall be published immediately after the adjournment of the Board, under the authority of the Common Council in the daily newspapers."

Mr. Whiting moved that the further consideration of the 9th section be, for the present, postponed.

The chairman having put the question on the motion for postponement, the same was determined in the negative.

M. Duer then moved that the consideration of the

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additional section offered by him, and also of the amendment thereto, offered by Mr. Noah, be postponed.

The chairman having put the question on Mr. Duer's motion for postponement, the same was determined in the affirmative.

The chairman then put the question on the 9th section as reported by the committee, and the same was determined in the affirmative.

The chairman then read the 10th section, as reported by the committee, in the words following:

Sec. 10. No member of either board shall, during the period for which he was elected, be competent to hold any office, of which the emoluments are paid from the city treasury, or by fees directed to be paid by any ordinance or act of the Common Council.

Mr. Van Wagenen moved to strike out the words, "during the period for which he was elected."

The chairman having put the question on striking out the same, was determined in the negative.

Mr. M'Ewen moved to add, after the word "elected," in the first line, the words "appointed to, or."

The chairman having put the question on the amendment of Mr. M'Ewen, the same was dermined in the affirmative.

Mr. Selden moved the following amendment to be put at the end of the section, "or be directly, or indirectly interested in any contract, the expenses or consideration whereof are to be paid under any ordinance of the Common Council."

The chairman having put the question on Mr. Selden's amendment, the same was determined in the affirmative.

Mr. Duer offered an amendment to follow that of Mr. Selden, in the following words: "But this section shall not be construed to deprive any Alderman or As-

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sistant of any emoluments or fees to which he is entitled by virtue of his office.

The chairman having put the question on Mr. Duer's amendment, the same was determined in the affirmative.

The chairman then read the section as amended, in the following words:

"Sec. 10. No member shall, during the period for which he was elected, be appointed to, or be competent to hold, any office, of which the emoluments are paid from the city treasury, or by fees directed to be paid by any ordinance or act of the Common Council; or be directly or indirectly interested in any contract, the expenses or consideration whereof are to be paid under any ordinance of the Common Council: But this section shall not be construed to deprive any Alderman or Assistant of any emoluments or fees to which he is entitled by virtue of his office.

The chairman having put the question thereon, the same was determined in the affirmative.

On motion of Mr. Emmons, the committee then rose, reported progress, and asked for, and obtained, leave to sit again.

On motion of Mr. Whiting,

Ordered, That the resolution of Mr. Arnold on the subject of the election of Mayor by the People, be printed for the use of the members.

On motion of Mr. Duer,

Ordered, That the section offered by him in committee of the whole, together with the amendment thereto, by Mr. Noah, be printed for the use of the members.

Mr. Cooper moved, that when the convention adjourn, it adjourn to meet on Monday next at 4 o'clock.

Mr. President having put the question thereon, the same was determined in the negative.

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Mr. Allen offered to the consideration of the convention the following amendments to the report of the committee of fourteen:

§ "Unless by virtue of a special act of the Legislature for that purpose, the Common Council shall not have authority to borrow in any one year, on the credit of the Corporation, a sum exceeding thousand dollars; nor for a longer period of credit than months; nor shall any loan so made be renewed, or its time of payment be extended, unless the same be founded under an act of the Legislature."

§ "It shall be the duty of the Common Council to publish, in the month of December in each year, for the general information of the citizens of New-York, a full and detailed statement of the receipts and expenditures of the Corporation during the year ending on the first day of the same month; and in every such statement the different sources of city revenue, and the amount received from each; the several appropriations made by the Common Council; the objects for which the same were made, and the amount of moneys expended under each; the moneys borrowed on the credit of the Corporation; the authority under which each loan was made, and the terms on which the same was obtained, shall he clearly and particularly specified."

Ordered, That the same do lie on the table, and be printed for the use of the members.

Whereupon, on motion of Mr. Piggott, the convention adjourned till to-morrow afternoon at 4 o'clock.

FRIDAY, JULY 24, 1829.

The convention met pursuant to adjournment.

The minutes of yesterday were read and approved.

On motion of Mr. White, the convention again resolved itself into a committee of the whole, on the re-

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port of the committee of fourteen, and after some time spent thereon, Mr. President resumed the chair, and Mr. P. Hone, from the said committee, reported, that in further considering the said report, Mr. Noah made a motion that the committee of the whole should agree to pass over the 11th, 12th, 13th and 14th sections thereof as originally reported, and consider the 15th section, which motion was decided in the affirmative. That the said 15th section was read in the words following:

"Neither the Mayor, nor Recorder of the city of New-York, shall hereafter be members of the Common Council thereof."

That Mr. Noah made a motion to strike out the words "*Neither*," "*nor Recorder*," and to insert the word "*shall*," the word "*not*," and to make such literal alterations in said section, as to read—"The Mayor of the city of New-York shall not hereafter be a member of the Common Council thereof." That debates were had thereon, the question having been put whether the committee would agree to the same, it was determined in the negative.

That the chairman then put the question whether the committee would agree to the said section as reported and it was determined in the affirmative.

That Mr. Noah made a motion, that the committee should proceed to the consideration of the 16th section, which was carried in the affirmative. That the section was read in the words following:

"The Mayor of the city of New-York shall be appointed by the Common Council, in the same manner in which senators in Congress are now directed by law to be appointed by the Legislature."

That the question having been put whether the committee would agree to the said section, it was determined in the affirmative.

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That Mr. White made a motion that the committee should then proceed to the consideration of the 11th section, which was carried.

The said section was read in the words following, to wit:—

"Every act, ordinance or resolution which shall have passed the two boards of the Common Council before it shall take effect, shall be presented duly certified to the Mayor of the city, for his approbation. If he approve he shall sign it, if not, he shall return it with his objections to the board in which it originated within ten days thereafter, or if the Common Council be not then in session, at their next stated meeting. The board to which it shall be returned, shall enter the objections at large on their journal, and cause the same to be published in one or more of the public newspapers of the city."

That in considering the said section, Mr. Selden made a motion to insert after the word "*Resolution*," in the first line, the words "except ordinances for the correction of nuisances;" that debates were had thereon and the question having been put, whether the committee would agree to the said motion of Mr. Selden, it was decided in the negative.

That Mr. Noah made a motion to strike out of the said section, all the words in the last clause thereof, after the word "journal" in the 7th line. That debates were had thereon, and the question having been put, whether the committee would agree thereto, it was determined in the negative. That the question having been put, whether the committee would agree to the said section as reported, the same was determined in the affirmative.

Mr. P. Hone, further reported, that in proceeding on the 12th section of the said report, the same was read in the words following, to wit:—

The board to which such act, ordinance, or resolu-

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tion shall have been so returned, shall, after the expiration of not less than ten days thereafter, and not sooner, proceed to reconsider the same. If after such reconsideration, a majority of the members elected to the board, shall agree to pass the same, it shall be sent, together with the objections, to the other board, by which it shall be likewise reconsidered, and if approved by a majority of all the members elected to such board, it shall take effect as an act or law of the Corporation. In all such cases, the votes of both boards shall be determined by yeas and nays, and the names of the persons voting for and against the passage of the measure reconsidered, shall be entered on the journal of each board respectively."

That Mr. Piggott made a motion to strike out the word "majority" in the said section, and insert in lieu thereof, the words, "*two thirds*;" that debates were had thereon, and the question having been put, whether the committee would agree to the said motion of Mr. Piggott, and it was determined in the negative.

That Mr. Stilwell made a motion to strike out of the said section, the words, "and not sooner," and the same was determined in the affirmative. That the said section as amended having been read, and the question put, whether the committee would agree to the same, it was determined in the affirmative.

That the 13th section of the said report was read in the words following, to wit:

If the Mayor shall not return any act ordinance or resolution so presented to him, within the time above limited for that purpose, it shall take effect in the same manner as if he had signed it." That the question having been put, whether the committee would agree to the same, it was determined in the affirmative.

That the 14th section of the said report was read in the words following, to wit:

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In addition to their legislative powers, the Aldermen and Assistant Aldermen. shall severally possess all the rights and powers, which by law, now are, or hereafter shall be annexed to their respective offices.

That Mr. Stilwell made a motion to strike out the whole of the same section, and the question having been put, whether the committee should agree to the same, it was determined in the affirmative. That thereupon Mr. Whiting moved that the committee should agree to a section which he offered in place of the one stricken out, which was read and is in the words following, to wit:—

No member of the Common Council shall hereafter be permitted to sit as a judge in the court of Sessions in this city. Debates were had thereon, when Mr. Whiting withdrew his motion for the present.

That the 17th section of the said report was read in the words following.

"The Common Council may also appoint in the same manner, a suitable person as deputy Mayor, whenever the Mayor shall be absent from the city, or shall be prevented by sickness from attending to the duties of his office. The person so appointed shall possess all the rights and powers of the Mayor, during the continuation of such disability or absence of the Mayor." That the question having been put, whether the committee would agree to the said section, it was determined in the affirmative.

That the 18th section of the said report was read in the words following.

It shall be the duty of the Mayor:—

1st. To communicate to the Common Council at least once a year, and oftener, if he should deem it expedient, a general statement of the situation and condition of the city, in relation to its government, finances and improvements.

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2nd. To recommend to the adoption of the Common Council, all such measures connected with the police, security, health, cleanliness and ornament of the city, and the improvent of its government, and finances as he shall deem expedient.

3rd. To be vigilant and active in causing the laws and ordinances for the government of the city to be duly executed and enforced.

4th. To exercise a constant supervision and control over the conduct and acts of all subordinate officers, and to receive and examine into all such complaints as may be preferred against any of them, for violation or neglect of duty.

That the question having been put, whether the committee would agree to the said section, it was determined in the affirmative.

Mr. P. Hone further reported, that in proceeding on the 19th section of the said report, the same having been read in the words following.

The Mayor shall appoint the Inspector of hackney coaches, the Street Inspectors of the respective wards, and the Captains and Assistant Captains of the city watch; and he shall nominate, and with the consent of the Board of Aldermen, shall appoint all the other officers, whose offices are created by the Corporation, or of whom the appointment by law is or shall be vested in the said corporation."

Mr. Selden made a motion that the committee should agree to receive a substitute for the said section which was read, and is in the words following, to wit:—

"The Mayor shall appoint the Inspector of hackney coaches, the Clerks of the market, the Street Inspectors of the several wards, the Captains and Assistant Captains of the city watch. The Board of Assistant Aldermen shall appoint measurers of grain, lime, coal and stone, city gaugers and city weighers. All other offi-

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cers holding appointments from the Common Council, and not otherwise in these amendments provided for, shall be appointed as follows. The Board of Aldermen and the Board of Assistants, shall each nominate one person for said offices respectively, after which they shall meet together, and such person as shall be agreed upon on such nominations, shall thereby be appointed to the offices for which he shall be so nominated. If they shall disagree, the appointment shall be made by a joint ballot of the two boards."

That Mr. Arnold made a motion that the committee should agree to receive a substitute for the said section as originally reported, which was read, and is in the words following, to wit:—

"The Mayor shall nominate, and with the consent of the Board of Aldermen shall appoint all the officers whose offices are created by the Common Council, or of whom the appointment by law is, or shall be vested in the said corporation."

That Mr. Hedley made a motion to amend the said section as originally reported, by striking out of the said section, after the word, "*the*," all the words following, to the word "*Board*" in the third line, and after the words "*Board of*," in the third line, to insert the the word "*Assistants*," and to strike out the words "*the other*" in the fourth line.

That debates were had on the said several motions of Mr. Selden, Mr. Arnold, and Mr. Hedley. When Mr. White made a motion that the committee should agree to postpone for the then present, the further consideration of the said 19th and 20th sections of the report.

That the question having been put, whether the committee would agree to the said motion of Mr. White and it was determined in the affirmative.

Mr. P. Hone further reported, that in proceeding on

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the 21st section of the same report, the same was first read in the words following.

In addition to those enumerated in the preceding sections, the Mayor shall perform all such acts, and duties as are, or shall be required of him by the charter of the city, the acts of the legislature, and the ordinances of the Common Council.

That Mr. Stilwell made a motion to strike out the whole of the said section; and the question having been put, whether the committee would agree to the same, it was determined in the affirmative.

Mr. P. Hone further reported that in proceeding further on the said report, the 22d section thereof was read in the words following, to wit:

"Annual and occasional appropriations shall be made by proper ordinances of the Common Council, for every branch and object of city expenditure, nor shall any monies be drawn from the city treasury except the same shall have been previously appropriated to the purpose for which it is drawn."

That Mr. Duer made a motion that the word "monies," in the third line, should be so altered as to read "money," which was agreed to. That Mr. Hedley made a motion to strike out of the said section the words, "nor shall any money," in the third line, and to insert in the place thereof, the words "upon proper estimates from the proper departments, and no money shall"—debates were had thereon, when Mr. Hedley withdrew his motion. That thereupon Mr. Whiting renewed the said motion, and moved that the same words should be stricken out and the same words inserted as were moved to be stricken out and inserted by Mr. Hedley. Further debates were had thereon, when Mr. Duer moved that the committee should agree to postpone for the then present, the further consideration of the said section. That the question

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having been put, whether the committee would agree to the said motion of Mr. Duer, and it was determined in the affirmative.

Mr. P. Hone further reported progress and asked for and obtained leave to sit again.

On motion of Mr. McEwen, ordered, that the various substitutes and amendments offered in committee of the whole, this day, be printed for the use of this convention.

Mr. Alley made a motion that when this convention adjourn it do adjourn to meet again on Monday next, at 4 o'clock in the afternoon.

Mr. President put the question, whether the convention would agree to the said motion of Mr. Alley. and it was determined in the affirmative.

Mr. Selden submitted for the consideration of the convention, an additional section to the law proposed by the committee of fourteen, which was read, and is in the words following, to wit:

"The clerk of the board of Aldermen, shall, by virtue of his office, be clerk of the Common Council, and shall perform all the duties heretofore performed by the clerk of the Common Council, except such as shall be assigned to the clerk of the board of Assistant Aldermen. And it shall be his duty to keep open for inspection, at all reasonable times, the records and minutes of the proceedings of the Common Council, except such as shall be specially ordered otherwise."

Ordered, That the said section be committed to a committee of the whole, when on the report of the committee of fourteen, and that the same be printed for the use of the convention.

Mr. Whitney gave notice that when the convention should again resolve itself into a committee of the whole, on the report of the committee of fourteen, he should move for a reconsideration of the 17th sec-

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tion thereof, as originally reported by the said committee.

Then the convention adjourned till 4 o'clock, on Monday afternoon next.

MONDAY, 27TH JULY, 1829.

The convention met pursuant to adjournment.

Mr. Allen offered a resolution in the words following:

1st. The city Commissioners, Comptroller, city Chamberlain, Chief and other Engineers of the fire department, Commissioners of the alms house, Commissioners of the school fund, Collectors of assessments, and Collector of the city revenue, shall be appointed by the Common Council.

2d. The Inspector of hackney coaches, deputy Clerks of the markets, and the Captains and assistant Captains of the city watch, shall be appointed by the Mayor.

3d. The Mayor shall nominate, and with the consent of the board of Assistants, appoint the Counsel of the corporation, the Attorney of the corporation, the Public Administrator, resident Physician of the alms house, Keeper of the city hall and his assistants, Printer to the corporation, Inspector of weights and measures, Sealer of weights and measures, Regulator of the public clocks, Fire Wardens of the respective wards, Measurers of grain, lime, coal, and of cut stone and marble, the Inspectors of lumber and wood, the Guagers, city Weighers, and Ballast master.

4th. The Mayor shall have power to remove, for improper conduct or neglect of duty, any officer appointed by him, and he shall hear complaints against any of the city watch, and sufficient cause appearing, dismiss them from the service.

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5th. The Superintendent of streets, the Superintendent of wharves, the Superintendent of lamps, the Superintendent of repairs, the Street Inspectors, and the city Surveyors, or so many of them as the Common Council may deem necessary, shall be appointed by the city Commissioners.

6th. The clerk of the Comptroller and the Collector of arrears of taxes, shall be appointed by the Comptroller.

7th. The keepers and deputy keepers of the penitentiary and bridewell, and the keeper of the potters-field, shall be appointed by the Commissioners of the alms house.

8th. The firemen shall be nominated, and with the consent of the Mayor, appointed by the Engineers of the fire department.

9th. The watchmen shall be nominated, and with the consent of the Mayor, appointed by the Captains of the respective city watches.

On motion of Mr. Allen, ordered, that these resolutions be referred to a special committee, to consist of five members.

Mr. Duer moved that the committee of the whole be discharged from the further consideration of the 19th and 20th sections of the report of the committee of fourteen, and that the same be referred to the special committee of five, on the appointing power.

Mr. President having put the question on Mr. Duer's motion, the same was determined in the affirmative.

Mr. President thereupon appointed Mr. Allen, Mr. Duer, Mr. Selden, Mr. Arnold, and Mr. Hedley, such committee.

Mr. Demilt offered the following resolution, which on his motion, was referred to the same committee.

"The board of Assistant Aldermen shall appoint all the officers whose offices are created by the corpo-

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ration, or of whom the appointment is, or shall be, vested in the said corporation, except the assistant justices, and the police justices, and their respective clerks, the first Commissioner of the city Commissioners department, the Comptroller or first officer of the finance department, the Chamberlain or first officer of the treasury department, the Chief Engineer or first officer of the fire department, and all the Commissioners of the alms house department, and the Commissioners of the school money, which said officers shall be chosen by joint ballot of both boards.

Mr. Cooper offered the following resolution, which, on his motion, was referred to the same committee:

"*Resolved*, That the committee on the appointing power, be instructed to inquire into the expediency of providing for an election by the people, of the Commissioners of the alms house, and of the Commissioners of the school fund."

Mr. Townsend offered the following resolution, which, on his motion, was referred to the same committee:

"*Resolved*, That the committee on the appointing power be instructed to report an amendment, giving the appointing power of all officers now appointed by the Common Council, to the vote on joint ballot of the two houses."

On motion of Mr. Allen, the convention now resolved itself into a committee of the whole, on the unfinished business, being the remaining sections of the report of the committee of fourteen; Mr. P. Hone in the chair.

The chairman having put the question, whether the committee would now go into the consideration of the 22d section of that report, it was determined in the affirmative.

The consideration of the amendment thereto origi-

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nally offered by Mr. Hedley, and adopted by Mr. Whiting, being the first before the committee, Mr. Whiting offered instead thereof the following amendment, to be added at the end of the section:—"And before any such appropriation shall be made, it shall be the duty of the proper officer to furnish an estimate of the amount which, in his judgment, will be necessary, from time to time, to carry into effect the object to which the money so to be appropriated is to be applied."

Debates were had thereon, when Mr. Whiting withdrew his amendment, and offered the following substitute for such amendment:—"Nor shall any money be drawn from the city treasury, except to pay debts actually due."

Mr. Stilwell offered the following amendment to the said 22d section, in place of Mr. Whiting's substitute: "And no part of the annual or other appropriations shall be drawn from the treasury, except for specified accounts, or for such sums as shall be required for use before accounts can be made out for the same.

Mr. Hedley made a motion, that the further consideration of the 22d section be postponed, in order that the subject matter of that section may be referred to a special committee.

Debates were had thereon, when Mr. Hedley withdrew his motion to postpone.

Mr. Tibbits made a motion to amend the said 22d section, by striking out in the first line thereof the words "annual, and occasional," and to insert the word "special; and to add to the end of the section the words "and upon warrants to be drawn by the chief officer of each respective department, and countersigned by the Comptroller.

Mr. Whiting's amendment being first in order, the same was read by the chairman, and he having put

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the question, shall this amendment pass? the same was thereupon determined in the negative.

Mr. Stilwell then withdrew the amendment offered by him.

The chairman then put the question on Mr. Tibbits' motion for striking out the three first words of the section under consideration, and the same was determined in the negative.

The chairman then put the question on adding Mr. Tibbets' amendment at the end of the said section, and it was determined in the negative.

The 22d section, as reported by the committee of fourteen, was then read in the words following:

"Sec. 22. Annual and occasional appropriations "shall be made by proper ordinances of the Common "Council for every branch and object of city expendi- "ture; nor shall any money be drawn from the city "treasury, except the same shall have been previously "appropriated to the purposed for which it was drawn."

And the chairman having put the question, shall this section pass? the same was determined in the affirmative.

Mr. Allen made a motion that the committee now proceed to consider the two additional sections offered by him in convention in the sitting of the 22d inst.

And the chairman having put the question on considering the said two sections, the same was determined in the affirmative.

Mr. Allen moved, that the blank in the third line of the first of said sections be filled with the words "one hundred;" and the chairman having put the question thereon, the same was determined in the affirmative.

Mr. Allen then moved that the blank in the fourth line in the said section be filled with the word "twelve;" and the chairman having put the question thereon, the same was determined in the affirmative.

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The chairman then read the section in the following words:

"Sec. 23d. Unless by virtue of a special act of the Legislature for that purpose, the Common Council shall not have authority to borrow, in any one year, on the credit of the Corporation, a sum exceeding one hundred thousand dollars, nor for a longer period of credit than twelve months; nor shall any loan so made be renewed, or its time of payment be extended, unless the same be funded under an act of the Legislature."

And having put the question, Shall this section pass? the same was determined in the affirmative.

And thereupon, on motion of Mr. Emmons, the committee rose, reported progress, and asked for and obtained leave to sit again.

Mr. Whiting offered the following resolution:

Resolved, That the secretaries, in the name of, and in behalf of, this convention, request the Comptroller to furnish the convention with a copy of the accounts of the expense of the canal celebration, the fiftieth anniversary, and the Canal-street sewer.

Ordered, that the same do lie upon the table.

On motion of Mr. Cooper, the convention then adjourned till to-morrow afternoon at 4 o'clock.

Tuesday, July 28, 1829.

The convention met pursuant to adjournment.

The minutes of yesterday were read and approved.

Mr. Arnold offered for the consideration of the convention, a substitute for the 20th section of the law proposed by the committee of fourteen, which was read, and is in the words following to wit:

The Mayor shall have power to suspend from the execution of the duties of his office, (if, in the discre-

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tion of the said Mayor, the public good requires it) any person or persons appointed by him with the consent of the Board of . And it shall be the further duty of the Mayor to communicate to the Board of , in writing, the reasons for such suspension, at their first meeting subsequent to said suspension; and if he shall deem it proper may recommend the removal of any person or persons so suspended, or any person or persons holding office or offices as aforesaid, not suspended; and on such recommendation the Board of . shall forthwith proceed to the consideration of such individual case or cases so submitted to them, and may, in their wisdom, remove from office or offices, respectively, the person or persons so presented, provided a majority of all the members elected to said board approve of such removal. And if, after the Board of have duly considered his or their case, they shall refuse to remove from office the person or persons, so presented, then the said persons shall be, and the same are, restored, and shall proceed to the discharge of his or their public duties.

Ordered, That the same be referred to the committee on the appointing power, of which Mr. Allen is chairman.

Mr. Duer offered for the consideration of the convention, two several resolutions, which were read, and are in the words following, to wit:

"*Resolved*, That in the opinion of this convention, the power of appointment to offices under the Corporation ought not to be exclusively vested either in the Mayor or in the Common Council, or in either Board thereof; or in the Mayor, in connexion with the Common Council, or with either Board thereof; but that the same should be distributed between the Mayor, the Common Council, and the heads of the different departments of the city government, and that such officers

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as can properly be so chosen, should be elected by the people.

Resolved, That the committee of which Mr. Allen is chairman be instructed to prepare a report on the principles of the preceding resolution.

The first resolution was again read, and debates had thereon.

Mr. President put the question whether the convention would agree to the same, and it was determined in the affirmative.

The second resolution was also again read, and the question put whether the convention would agree thereto, and it was determined also in the affirmative.

Mr. H. H. Schieffelin offered for the consideration of the Convention, an additional section to the proposed law recommended by the committee of fourteen, to succeed the 22d section thereof, which was read, and is in the words following, to wit:

The whole amount of any appropriation shall not be drawn from the city treasury at one time, unless required for immediate expenditure; but in such instalments as the Common Council shall direct at the time of making such appropriation, and no instalment shall exceed in amount the security for the due performance of this trust, given by the person receiving the same.

Mr. H. H. Schieffelin also offered for the consideration of the Convention, an additional section to the proposed law, which was also read, and is in the words following, to wit:

"Public notice having been given at least three months previous to an annual election of members of the Common Council, whenever three-fourths of the Aldermen and three-fourths of the Assistant Aldermen, with the concurrence of the Mayor, shall vote in favor of any alteration of the charter of this city, and the legislature shall pass an act or acts confirming the same

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such alteration shall become part of the charter of this city."

Ordered, The said several sections offered by Mr. H. H. Schieffelin be committed to a committee of the whole, when on the report of the committee of fourteen.

On motion of Mr. Allen, the Convention then resolved itself into a committee of the whole on the report of the committee of fourteen, and after sometime spent thereon, Mr. President resumed the chair, and Mr. P. Hone, from the said committee, reported that in proceeding on the same, the second additional section offered by Mr. Allen, on the 23d instant, was read in the words following, to wit:

It shall be the duty of the Common Council to publish in the month of in each year, for the general information of the citizens of New-York, a full and detailed statement of the receipts and expenditures of the Corporation, during the year ending on the first day of the same month, and in every such statement, the different sources of city revenue and the amount received from each; the several appropriations made by the Common Council, the objects for which the same were made, and the amount of monies expended under each; the monies borrowed on the credit of the Corporation, the authority under which each loan was made, and the terms on which the same was obtained, shall be clearly and particularly specified.

That Mr. Stilwell made a motion that the committee should agree to strike out of the said section the words "in the month of" in the first line thereof, and to insert in lieu thereof, the word "quarterly"; that debates were had thereon, and the question having been put whether the committee would agree to the same, it was determined in the negative.

That Mr. Verplanck made a motion that the committee should agree to strike out of the said section the

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words "in the month of" in the first line, and to insert in lieu thereof, the words "two months before the annual election of charter officers"; that debates were had thereon, and the question having been put whether the committee would agree to the same, it was determined in the affirmative.

That Mr. H. H. Schieffelin made a motion to insert after the word "each," in the sixth line of the said section, the words "the special objects for which, and the persons to whom the same were paid"; that the question having been put whether the committee would agree thereto, and it was determined in the negative.

That Mr. Verplanck made a motion to strike out of the said section the words "the same month," in the fourth line, and to insert in lieu thereof, the words "the month of such publication."

That Mr. Tibbits made a motion to strike out of the said section the words "ending on the first day of" in the third line, and the words "the same month," in the fourth line thereof; that debates were had on the said motions of Mr. Verplanck and Mr. Tibbits, and the question having been put whether the committee would agree to the said motion of Mr. Verplanck, and it was determined in the affirmative.

That the said section as amended, having been read, and the question put whether the committee would agree to the same as amended, and it was determined in the affirmative.

Mr. P. Hone further reported that in further proceeding on the said report, the 23d section thereof as originally reported was read in the words following, to wit:

The executive business of the Corporation of New-York, shall hereafter be performed by distinct departments, which it shall be the duty of the Common Council to organize and appoint for that purpose. The de-

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partments so to be organized shall be respectively denominated the city commissioners' department, the finance department, the treasury department, the alms house department and the fire department; that the question having been put whether the committee would agree to the said section as reported, and it was determined in the affirmative.

That in further proceeding on the said report, the 24th section thereof was read in the words following, to wit:

"It shall be the duty of the Common Council to provide for the accountability of all officers, and other persons to whom the receipt or expenditure of the funds of the city shall be entrusted, by requiring from them sufficient security for the performance of their duties or trust.

That Mr. Duer made a motion that the committee should agree to add to the said section the words following, to wit: "Nor shall any such officer or other person have in his hands at any one time a sum exceeding the penalty of the bond that he shall have been required to give.

That Mr. Hedley made a motion to amend the amendment offered by Mr. Duer, by striking out of the same the words "the penalty of the bond that he shall have been required to give," and to insert in lieu thereof, the words "two thousand dollars."

That Mr. H. H. Schieffelin moved to amend the said section by adding thereto the words "and the whole amount of any appropriation shall not be drawn from the city treasury at one time, unless required for immediate expenditure; but in such instalments as the Common Council shall direct at the time of making such appropriation.

That Mr. Sherman made a motion to amend the said section, by adding to the same the words following,

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to wit: "And all annual appropriations and such others as the city government shall direct, shall be drawn in as small instalments as the nature of the case will admit, and no subsequent instalment shall be drawn until the preceding one has been satisfactorily accounted for

That debates were had on the said several motions of Mr. Duer, Mr. Hedley, Mr. H. H. Schieffelin and Mr. Sherman, and the question having been put, first whether the committee would agree to the motion of Mr. Hedley to amend the amendment offered by Mr. Duer, and the same was determined in the negative. That the question being put whether the committee would agree to the motion of Mr. Duer, it was determined in the negative. That the question having been put whether the committee would agree to the motion of Mr. H. H. Schieffelin, and it was determined in the negatihe. That the question having been put whether the committee would agree to the said motion of Mr. Sherman, and it was determined also in the negative.

Mr. P. Hone further reported that Mr. Whiting made a motion that the committee should agree to amend the said section, by adding thereto the words "which security shall be annually renewed"; that debates were had thereon, and the question having been put whether the committee would agree thereto, and it was determined in the affirmative. That thereupon Mr. Mount made a motion that the committee should reconsider their vote on the last amendment offered by Mr. Whiting, and the question having been put on the motion of Mr. Mount, it was decided in the affirmative. That the amendment of Mr. Whiting having been again read and the question having been again put whether the committee would agree thereto, it was determined in the affirmative. That the said 24th sec-

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tion having been again read as amended, and the question put whether the committee would agree to the same as amended, and it was determined in the affirmative.

Mr. P. Hone further reported progress, and asked for and obtained leave to sit again.

Then, on motion of Mr. Emmons, the Convention adjourned, to meet again to-morrow afternoon, at 4 o'clock.

WEDNESDAY, 29TH JULY, 1829.

The Convention met pursuant to adjournment.

The minutes of yesterday were read and approved.

Mr. Allen, from the special committee on the appointing power, made the following report, which was read, and on his motion referred to a committee of the whole house, and ordered to be printed for the use of the members.

The committee to whom it was referred to report a plan for the distribution and apportionment of the appointing power, respectfully report—

That having maturely considered the matters so submitted to them, they are of opinion that the provisions contained in the section herewith reported, ought to be adopted by the Convention, as a substitute for the 19th and 20th sections of the report of the committee of which Mr. White was chairman.

Substitute for the 19th and 20th Sections of the Report of the Committee of Fourteen.

§ The officers enumerated in this section shall be elected and appointed in the following manner:

1st. The Commissioners of the School Fund, the Street Inspectors, and the Fire Wardens, shall be an-

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nually elected by the people in their respective wards, but the Street Inspectors shall be subject in the execution of their duties, to the directions of the City Commissioners.

2d. The Chamberlain, the Comptroller, and the Counsel of the Corporation, the Public Administrator, the City Commissioners, the Commissioners of the Alms House, the Chief and other Engineers of the Fire Department, and the Collector of the City Revenue, shall be appointed by the Common Council in the same manner in which the Attorney General, and other state officers are now directed by the constitution of the state to be appointed by the Legislature.

3d. The Mayor shall appoint the Attorney of the Corporation, the Deputy Clerks of markets, the Inspector of hackney coaches, and the Captains and Assistant Captains of the city watch.

4th. The City Commissioners shall appoint the collector of assessments, and the city surveyors, and the offices of street commissioner and his assistants, of city inspector, superintendant of repairs, superintendant of lamps, superintendant of wharves, and superintendant of streets shall be abolished, and the duties thereof be performed by or under the direction and control of the City Commissioners.

5th. The commissioners of the alms house shall appoint the superintendent of the alms house and his clerk, the keeper and his assistants of the penitentiary, the keeper and his assistants of the bridewell and city prison, the resident physician of the alms house, and the keeper of potters field.

6th. The engineers of the fire department, with the approbation of the Mayor, shall appoint the firemen.

7th. The Comptroller shall appoint his clerk, and the collector of the arrears of taxes.

8th. The Captains of the city watch shall appoint

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the watchmen, subject to the approbation of the Mayor.

9th. The Board of Assistants shall appoint all other city officers except such as are directed by the constitution of the state to be appointed by the Common Council, and except such as the Mayor is now authorised to appoint by law, or by any ordinance of the Corporation. In making such appointments, each member of the Board of Assistants shall openly nominate the person for whom his vote is given.

10th. All the officers of whom the appointment is provided for in this section, except those who are to be elected by the people, shall hold their offices during the pleasure of the board, department, or person by whom they are respectively appointed.

All which is respectfully submitted.

STEPHEN ALLEN,
JNO. DUER,
JNO. R. HEDLEY,
DUDLEY SELDEN.

Mr. Hedley offered the following resolution:

Resolved, That whenever it shall be necessary for the public convenience or health of the city, to lay out, form and open any street or streets, or public place or places, in any part of the said city not laid out into streets, avenues, squares, and public places, the individual or individuals who may be assessed, or whose property may be required to be taken for such purpose, shall have a right to appeal to a jury, before the assessment or report of commissioners shall become final, provided the said right shall be exercised within such time as the Common Council shall appoint.

On motion of Mr. Hedley,

Ordered, That the same do lie upon the table.

Mr. Whiting presented a copy of the report of the annual receipts and disbursements of the city of Philadelphia.

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On motion of Mr. Whiting,

Ordered, That the same do lie upon the table for the use of the members.

Whereupon on motion,

The Convention then resolved itself into a Committee of the whole, on the unfinished business of yesterday, being the report of the committee of fourteen.

Mr. P. Hone in the chair.

Mr. Whiting pursuant to notice heretofore given for that purpose, moved that the committee of the whole do now proceed to reconsider the 17th section of the report of the committee of fourteen, as passed in committee of the whole.

The chairman having put the question on Mr. Whiting's motion to reconsider, the same was determined in the affirmative.

Mr. Whiting then offered a substitute for the said 17th section, in the words following:

§ The Common Council may also appoint in the same manner, a suitable person as deputy Mayor, whenever, by reason of the death, illness or absence of the Mayor, the public good shall require it; and the person so appointed shall possess all the rights and powers of the Mayor, during his absence or inability to fulfil the duties of his office.

Mr. Duer offered a substitute for the said 17th section, in the words following.

§ "Whenever there shall be a vacancy in the office of Mayor, and whenever the Mayor shall be absent from the city, or be prevented by sickness from attending to the duties of his office, the president of the board of Aldermen shall act as Mayor, and shall possess all the rights and powers of the Mayor, during the continuance of such vacancy, absence or disability."

Mr. Verplanck offered a substitute for the said 17th section in the words following.

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Strike out the first and second lines to the word "Whenever" and insert "The Mayor shall nominate and appoint a deputy Mayor." So that the section may read "The Mayor shall nominate and appoint a deputy Mayor whenever he shall be prevented by sickness from attending to the duties of his office, who shall possess the rights and powers of the Mayor, during such disability or absence."

Debates were had on the several substitutes.

The Chairman then put the question on the substitute offered by Mr. Whiting, and the same was determined in the negative.

The Chairman then put the question on Mr. Duer's substitute, and the same was determined in the affirmative.

On motion of Mr. Sherman, the committee then agreed to reconsider the 16th section of the report of the committee of fourteen.

Mr. Noah offered the following substitute for the said 16th section.

"The Mayor of the city of New-York shall be chosen by joint ballot of the Boards of Aldermen and Assistants."

Mr. Sherman moved to amend the section, by striking out all the words after the word "Council" in the second line thereof.

Debates were had thereon.

The Chairman put the question on Mr. Sherman's motion to strike out, and the same was determined in the affirmative.

Mr. Van Beuren made a motion to amend the section by adding at the end thereof, the words "by joint ballot."

The Chairman having put the question on Mr. Van Beuren's amendment; the same was determined in the affirmative.

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Mr. Sherman moved to amend the said section by inserting after the word "appointed," in the first line thereof, the word "annually."

The Chairman having put the question on Mr. Sherman's motion, the same was determined in the affirmative.

The Chairman then read the 16th section as amended in the following words.

Sec. 16. The Mayor of the city of New-York shall be appointed annually by the Common Council, by joint ballot."

And having put the question, shall this section pass, the same was determined in the affirmative.

Mr. Selden made a motion, that the committee of the whole do now consider the additional section offered by him in convention on the 24th inst.

The Chairman having put the question on Mr. Seldens' motion, to consider the said additional section, the same was determined in the affirmative.

The Chairman then read the said section in the words following.

"The Clerk of the board of Aldermen shall, by virtue of his office, be Clerk of the Common Council, and shall perform all the duties heretofore performed by the Clerk of the Common Council, except such as shall be assigned to the Clerk of the Board of Assistant Aldermen, and it shall be his duty to keeep open for inspection, at all reasonable times, the records and minutes of the proceedings of the Common Council, except such as shall be specially ordered otherwise."

The Chairman then put the question, shall this section pass, and the same was determined in the affirmative.

Mr. Noah made a motion that the committee of the whole do reconsider the 6th section of the report of the committee of fourteen, and the Chairman having put

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the question on Mr. Noah's motion, the same was determined in the affirmative.

On motion of Mr. Noah, the committee of the whole then proceeded to consider the amendment to the said 6th section offered by him in convention on the 23d instant.

Mr. Hedley made a motion to amend the amendment of Mr. Noah, by adding after the word "Board," in the third line thereof, the words "in one or more of the daily newspapers," and to strike out in the last line the words "in the daily newspapers." Whereupon Mr. Noah assented to the said amendment for striking out.

Mr. Allen made a motion to amend the amendment offered by Mr. Noah, by adding after the word "all," in the first line, the words "resolutions and."

And the Chairman having put the question on Mr. Allen's amendment, the same was determined in the affirmative.

Mr. Whiting made a motion, to add after the word "city," in the second line thereof, the words, "and a detailed statement of all reports of the Finance Committee."

The Chairman having put the question on Mr. Whiting's amendment, the same was determined in the negative.

Mr. Van Beuren made a motion to amend the said amendment of Mr. Noah, by adding at the end thereof, the words "in all the newspapers employed by the Corporation."

Whereupon Mr. Hedley withdrew his amendment.

Mr. J. Hone made a motion to amend the said amendment of Mr. Noah, by adding at the end thereof, the words "and whenever a vote is taken in relation thereto, the ayes and nays shall be called and published in the same manner."

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The Chairman having put the question on Mr. Van Beuren's amendment, the same was determined in the affirmative.

The Chairman having put the question on Mr. J. Hone's amendment, the same was determined in the affirmative.

The Chairman then read the 6th section as amended in the words following.

Sec. 6. The Boards shall meet in separate chambers "and a majority of each shall be a quorum to do busi- "ness. Each board shall appoint a President from its "own body, and also choose its Clerk and other officers "determine the rules of its own proceedings, and be "the judge of the qualifications of its own members. "Each board shall keep a journal of its proceedings, and "the doors of each shall be kept open, except when the "public welfare shall require secrecy. And all resolu- "tions and reports of committees, which shall recom- "mend any specific improvement, involving the appro- "priation of public monies, or taxing or assessing the "citizens of said city, shall be published immediately "after the adjournment of the Board, under the authori- "ty of the Common Council, in all the newspapers em- "ployed by the Corporation; and whenever a vote is "taken in relation thereto, the ayes and noes shall be "called, and published in the same manner."

And the Chairman having put the question on the said section as amended, the same was determined in the affirmative.

Whereupon on motion of Mr. Arnold, the committee of the whole then rose, reported progress, and asked for and obtained leave to sit again.

On motion of Mr. Verplank, ordered, that the resolution of Mr. Hedley, on the subject of opening new streets, avenues and squares, be printed for the use of the members.

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On motion of Mr. P. Hone, ordered, that the report of the committee on the subject of altering the time of holding the Charter Election, be made the special order of the day for to-morrow.

Mr. Duer gave notice, that when the committee of the whole should again have under consideration the report of the committee of fourteen, he would offer the following additional section, to wit:—

§ It shall be the duty of the Mayor to furnish to every citizen who shall apply to him for that purpose, an order authorising such citizen to inspect and examine, and if he deem proper, to take extracts from such accounts and vouchers relating to any city expenditure, as shall have been specified in the application upon which the order shall be granted. Such order shall be directed to the officer in whose custody, or under whose control such accounts and vouchers may be, and shall be obeyed by such officer without delay.

Mr. Townsend gave notice that he should hereafter move for a re-consideration of the 3d section of the report of the committee of fourteen, for the purpose of introducing an amendment thereto, reducing the term of service of the Aldermen from two years to one year.

Whereupon, on motion, the Convention adjourned till to-morrow afternoon at 4 o'clock.

THURSDAY, JULY 30TH, 1829.

The Convention met pursuant to adjournment.

The minutes of yesterday were read and approved.

On motion of Mr. McEwen,

The Convention resolved itself into a committee of the whole, pursuant to the order of the day, on the report of the committee to whom were referred certain resolutions relating to the time of holding the charter

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elections, and after some time spent thereon, Mr. President resumed the chair, and Mr. Sherman, from the said committee, reported that in proceeding on the first section recommended in the said report to be incorporated in the law for the passage of which the Convention are about applying to the legislature.

The same was read in the words following, to wit:

The annual election for charter officers shall be held on the second Tuesday in April, and the officers elected shall be sworn into office on the second Tuesday in May thereafter.

That Mr. Allen made a motion to amend the said section by adding thereto the words "And all such elections shall be notified, held and conducted by the same inspectors, in the same manner, with the like powers, and during the same number of days as the elections for members of Assembly of this state are notified, held and conducted.

That Mr. Van Beuren made a motion to amend the said amendment offered by Mr. Allen, by striking out the words "and during the same number of days," and to add to the same the words "but such election shall be held for one day only." That debates were had on the said motions of Mr. Allen and Mr. Van Beuren, and the question having been put whether the committee would agree to the motion of Mr. Van Beuren, and it was determined in the negative. That thereupon Mr. Piggott made a motion that the committee should agree to strike out of the said amendment so offered by Mr. Allen, the words "during the same number of days," and insert at the end thereof, the words "but such elections shall be held for two days only." Debates were had thereon, and the question having been put whether the committee would agree thereto, and it was determined in the negative. That the question having been put whether the committee would agree to the

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amendment offered by Mr. Allen, and it was carried in the affirmative. That Mr. Comstock made a motion to strike out of the said section as originally reported the words " be held," in the first line thereof, and to insert in lieu thereof, the word "commence," and that the question having been put whether the committee would agree to the same, it was determined in the affirmative. That the section, as amended, having been read, and the question put whether the committee would agree to the same as amended, and it was determined in the affirmative.

Mr. Sherman further reported that in further proceeding, the second section was read in the words following, to wit:

The first election for charter officers after the passage of this law, shall take place on the second Tuesday in April, 1831; and all those persons who shall have been elected under the former laws regulating the election of charter officers, and shall be in office at the time of the passage of this law, shall continue in office, or hold over, until the officers elected under this law shall be entitled to be sworn into office.

That the question having been put whether the committee would agree to the said section and it was determined in the affirmative.

Mr. Sherman further reported that in further proceeding, the third section, as originally reported, was read in the words following, to wit:

The Mayor of the city and all other officers who are appointed by the Common Council, and whose term of office would, by the existing laws, expire before the first Tuesday in May, 1831, shall be entitled to continue in office, or hold over until that time, or until others are appointed in their places.

That Mr. Allen made a motion to strike out of the said section "The Mayor of the city and," and the

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word "and" in the first line of the said section. That debates were had thereon, when Mr. Allen withdrew his said motion, and made a motion that the committee should agree to strike out the whole of the third section; and the question having been put whether the committee would agree thereto, and it was determined in the affirmative.

Mr. Sherman further reported that in proceeding on the fourth section, the same was read in the words following, to wit:

"All the provisions of any of the existing laws of the state which may be inconsistent with the provisions of this law, shall be and the same are hereby repealed.

That Mr. P. Hone made a motion that the committee should agree to strike out the whole of the said section, and that the question having been put whether the committee would agree to the same, and it was determined in the affirmative.

Which report of the committee of the whole Mr. Sherman read in his place, and delivered the same in at the table, when it was again read, and on motion of Mr. Morss, ordered that the same do lie upon the table.

Mr. Mount offered for the consideration of the Convention, a resolution, which was read, and is in the words following, to wit:

Resolved, That a committee be appointed to inquire into, and report on the expediency of providing that a poll list be made for the purpose of having registered therein, previous to every charter election, the names of all persons who shall be legally entitled to vote at such charter election.

Ordered, That the same do lie upon the table.

Then the Convention adjourned till to-morrow afternoon at 4 o'clock.

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FRIDAY, 31ST JULY, 1829.

The Convention met pursuant to adjournment.

The minutes of yesterday were read and approved.

On motion of Mr. Cooper, the Convention again resolved itself into a committee of the whole, on the report of the committee of fourteen, together with the report of the committee to whom it was referred to report a plan for the distribution and apportionment of the appointing power; and after some time spent thereon, Mr. President resumed the chair, and Mr. P. Hone, from the said committee, reported that the committee had agreed first to consider the substitute for the 19th and 20th sections of the report of the committee of fourteen, consisting of ten sections. That the first section thereof was read in the words following, to wit:

"The commissioners of the school fund, the street inspectors and the fire wardens, shall be annually elected by the people in their respective wards; but the street inspectors shall be subject, in the execution of their duties, to the direction of the city commissioners.

That Mr. White made a motion to strike out the whole of the section.

That Mr. Cooper made a motion to strike out of the said section all the words thereof excepting the words "shall be annually elected by the people," and to insert the word "There" preceding the word "shall," in the second line, and to insert the words "one person in each ward, who, together, shall form a board of Commissioners of the alms house," so that the said section shall read as follows: "There shall be annually elected by the people, one person in each ward, who, together, shall form a board of Commissioners of the alms house." That debates were had on the said motions of Mr. White and Mr. Cooper, when, on the suggestion of Mr. Verplanck, it was agreed that

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the question on striking out should be taken separately on the different officers mentioned in the said section. That the question having been put, first, whether the committee would agree to strike out the words "the Commissioners of the school fund," and it was determined in the affirmative. Second, whether the committee would agree to strike out the words "the street Inspectors," and it was determined in the affirmative. And third, whether the committee would agree to strike out the words "and the Fire Wardens," and it was also determined in the affirmative.

That the question having been put whether the committee would agree to the said motion of Mr. Cooper, and it was determined in the negative.

That then the question was put whether the committee would agree to strike out the remaining part of the said section, and it was determined in the affirmative. Mr. P. Hone further reported that in proceeding further on the said substitute, the second section thereof was read in the words following, to wit:

The Chamberlain, the Comptroller, and the Counsel of the corporation, the public Administrator, the city Commissioners, the Commissioners of the alms house, the Chief and other Engineers of the fire department, and the Collector of the city revenue, shall be appointed by the Common Council, in the same manner in which the Attorney General and other State officers are now directed by the constitution of the State to be appointed by the legislature.

That Mr. White made a motion to amend the said section by inserting after the word "revenue," in the fourth line, the words "the Commissioners of the school fund." That debates were had thereon, and the question having been put whether the committee would agree to the same, and it was determined in the affirmative. That Mr. Morris made a motion fur-

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ther to amend the said section by inserting after the said words "the Commissioners of the school fund," the words "and all other officers." That debates were had on the said motion of Mr. Morris, and the question having been put whether the committee would agree thereto, and it was determined in the negative by the casting vote of the chairman. That Mr. Arnold made a motion that the committee should agree to strike out the whole of the said section as amended. That debates were had thereon, and the question having been put whether the committee would agree to the said motion of Mr. Arnold, and it was determined in the negative. That Mr. Whiting made a motion to amend the said section by striking out of the same the words "the Comptroller, the city Commissioners, the Commissioners of the alms house." That debates were had thereon, when, on the suggestion of Mr. Comstock, the committee agreed that the question should be taken seperately on the officers designated to be stricken out. And the question having been put whether the committee would agree to strike out the words "the Comptroller," and it was determined in the negative. That thereupon Mr. Whiting made a motion that the committee should agree to reconsider their last vote on striking out the words "the Comptroller," and the question having been put whether the committee would agree to reconsider, and it was determined in the negative. That thereupon Mr. Whiting withdrew his other amendments. That the section as amended having been read, and the question put whether the committee would agree to the same as amended, and it was determined in the affirmative. Mr. P. Hone further reported progress and asked for leave to sit again. Debates were had on granting such leave. Mr. President put the question whether the convention would grant leave for the

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committee to sit again, and it was determined in the affirmative.

Mr. Hedley gave notice that he would move a call of the house at the next meeting of the convention.

Then, on motion of Mr. Jay, the convention adjourned till Monday next at 4 o'clock in the afternoon.

Monday, August 3d, 1829.

The convention met pursuant to adjournment.

The minutes of the last meeting were read and approved.

Pursuant to notice given at the last meeting, Mr. Hedley made a motion for a call of the house.

Mr. President put the question whether the convention would agree to the motion of Mr. Hedley, and it was determined in the affirmative.

Thereupon the list of the members elected to compose this convention was called, when all appeared in their seats excepting the following:

From the first ward—Mr. Noah.

From the second ward—Mr. Leggett.

From the third ward—Messrs. Stagg, Storm, and Selden.

From the fourth ward—Mr. Holmes.

From the fifth ward—Messrs. Verplanck and Tucker.

From the sixth ward—None.

From the seventh ward—Mr. Lyon.

From the eighth ward—Messrs. Duer, Burling, and Bogardus.

From the ninth ward—Mr. Miller.

From the tenth ward—Mr. Fream.

From the eleventh ward—Mr. Andries.

From the twelfth ward—Mr. Reynolds.

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From the thirteenth ward—None.

From the fourteenth ward—Messrs. Town and Suydam.

A member of the convention stated in his place, that Mr. Town, from the fourteenth ward, was necessarily absent in consequence of indisposition in his family.

Mr. P. Hone offered for the consideration of the convention, a section in lieu of the 19th and 20th sections of the proposed law recommended by the committee of fourteen, which was read, and is in the words following, to wit:

The Street Inspectors in the several wards shall be appointed by the Aldermen and Assistants of the ward, or any two of them; and shall be removable at their pleasure; and all other officers who are now appointed by the Mayor, Aldermen, and Commonalty, shall, after the passage of this law, and as often as the several offices shall become vacant, be appointed by the Common Council, by joint ballot.

Ordered, That the same be committed to the committee of the whole, when on that subject.

Mr. Townsend offered for the consideration of the convention, several sections to the proposed law amending the city charter, which were read, and are in words following, to wit:

§ There shall be annually elected by the people, one person from each ward, who, together with the Mayor, shall constitute a board of Surveyors, whose duty it shall be to report to the Common Council such improvements as the public good shall, in their opinion, require in relation to the laying out, opening, widening, extending, or closing, of highways, roads, avenues, streets, lanes, alleys, walks, parks, squares, wharves, docks, piers, and sewers, together with the probable expense as well as the time when such im-

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provements shall be made, provided the time shall not be less than one year, nor more than six, after the persons interested in said improvements shall have been duly notified thereof.

All applications for laying out, opening, widening, extending or closing of high-ways, roads, avenues, streets, lanes, alleys, walks, parks, squares, wharves, docks, piers and sewers, shall be made to the board of Surveyors; nor shall any such alterations or improvements be undertaken by the Common Council, until the same shall have been recommended and sanctioned by a majority of the board of Surveyors aforesaid.

The board of Surveyors shall also furnish the Common Council with a detailed estimate of the amount of damage or benefit which ought to be assessed upon each person interested in the alterations or improvements aforesaid, and of the manner in which the same shall be apportioned or distributed among them. And the decision of the board of surveyors thereon, shall be final, and without appeal to any tribunal whatsoever.

In the event of the death, resignation, removal or absence of any member of the board of Surveyors, the Common Council shall supply the vacancy thereof for the continuance of the term for which such member shall have been elected.

Thereupon Mr. Hedley made a motion, that the said sections should lie on the table, and be printed for the use of the convention.

Mr. President put the question, whether the convention would agree to the said motion of Mr. Hedley, and it was determined in the negative.

Thereupon ordered, that the said section offered by Mr. Townsend, be committed to a committee of the whole, when on the report of the committee of fourteen.

Mr. White offered for the consideration of the convention, a substitute for the 19th and 20th sections of

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the law proposed in the report of the committee of fourteen, which was read, and is in the words following, to wit:—

The Mayor shall appoint the Inspector of hackney coaches, the Street Inspectors in the several wards, and the Captain and Assistant Captains of the city watch. All other officers of the Corporation shall be appointed by the Common Council in the same manner in which the Attorney General and other state officers are now directed by the constitution of the state, to be appointed by the Legislature.

Ordered that the same be committed to a committee of the whole when on the said report.

Mr. Whiting offered for the consideration of the convention, a resolution, which was read, and is in the words following, to wit:—

Resolved, That the Street Commissioner be requested by the Secretaries, in the name of, and in behalf of this committee, to furnish them with an account of the assessments for wells and pumps, and opening and regulating and repaving streets for the last five years.

In the case of wells and pumps, specifying how much has been paid for digging wells; to superintendent of repairs for pumps; Assessors, Surveyors, Inspectors, and for printing.

And in like manner, a particular account of the amount paid to the different officers for regulating paving and repairing streets, as near as the same can conveniently be done.

Mr. President put the question, whether the convention would now consider the said resolution, and it was determined in the negative.

Mr. Whiting then called for the consideration of a resolution offered by him and entered on the journals of this convention, of the 27th July last. The same was read in the words following, to wit;—

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Resolved, That the Secretaries, in the name and in behalf of this convention, request the Comptroller to furnish this convention with a copy of the accounts of the expenses of the Canal celebration, the fiftieth anniversary and Canal street sewer.

Mr. President put the question whether the convention would now proceed to the consideration of the said resolution, and it was determined in the negative.

On motion of Mr. Allen, the committee again resolved itself into a committee of the whole, on the unfinished business of Friday last, being the report of the committee of fourteen, and the report of the committe on the appointing power, and after some time spent thereon, Mr. President resumed the chair, and Mr. P. Hone from the said committee reported, that in proceeding on the report of the committee on the appointing power, Mr. White made a motion that that committee should agree to reconsider the second section thereof, that the question having been put, whether the committee would agree to the same, and it was determined in the affirmative.

That thereupon Mr. White made a motion that the committee should agree to receive a substitute for the said section, by way of amendment, which was read in the words following, to wit:—

The Mayor shall appoint the Inspector of hackney coaches, the Street Inspectors in the several wards, and the Captains and Assistant Captains of the city watch. All other officers of the Corporation shall be appointed by the Common Council, in the same manner in which the Attorney General and other state officers are directed by the constitution of the state, to be appointed by the Legislature.

That on the requisition of the committee, the substitute offered by Mr. P. Hone, in the convention and committed to the committee of the whole was read.

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That Mr. Allen made a motion to strike out of the said substitute offered by Mr. White, by way of amendment, all after the words "Common Council," and to insert the words "by joint ballot."

That debates were had thereon, and that the question having been put, whether the committee would agree to the said motion of Mr. Allen, and it was determined in the affirmative.

That thereupon Mr. Cooper made a motion to insert in the said amendment, after the word Corporation, the words, "excepting the Comptroller." That debates were had thereon, and the question having been put, whether the committee would agree thereto, and it was determined in the affirmative, by the casting vote of the Chairman.

That Mr. Jay made a motion to amend the amendment of Mr. White, by adding thereto, the words, "but the Common Council may by law, vest the appointment of such inferior officers as they think proper, in the Mayor, or in the heads of departments.

That the question having been put, whether the committee would agree to the motion of Mr. Jay, and it was determined in the affirmative.

That the question having been put, whether the committee would agree to the said substitute, offered by Mr. White, and as amended, it was determined in the affirmative.

Mr. P. Hone, further reported, that in proceeding further on the said report of the committee on the appointing power, Mr. Allen made a motion to strike out the remaining sections thereof, excepting the tenth. And the question having been put, whether the committee would agree to the same, and it was determined in the affirmative.

That in proceeding on the said tenth section, the same was read in the words following, to wit:—

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All the officers, of whom the appointment is provided for in this section, except those who are to be elected by the people, shall hold their offices during the pleasure of the board, department or person by whom they are respectively appointed.

That Mr. White made a motion to strike out the whole of the said section, and to insert in lieu thereof, the following. "All officers, of whom the appointment is provided for in the foregoing section, shall hold their offices during pleasure." And the question having been put, whether the committee would agree to the same, and it was determined in the affirmative.

Mr. P. Hone further reported, that in further proceeding on the report of the committee of fourteen, the twenty-fifth section thereof was read in the words following, to wit:—

"Such parts of the charter of the city of New-York and of the several acts of the Legislature, amending the same, as are not inconsistent with the provisions of this law, shall not be construed as repealed, modified, or in any manner affected thereby, but shall continue and remain in full force.

That the question having been put whether the committee would agree to the same, and it was determined in the affirmative.

That Mr. Whiting made a motion that the committee should agree to add a section to the proposed law, which was read, and is in the words following, to wit:

"No member of the Common Council shall hereafter be permitted to sit as a Judge in the Court of Sessions in this city." That debates were had thereon, when Mr. Emmons made a motion that the committee should rise and report; and the question having been put whether the committee agree to the motion of Mr. Emmons, and it was determined in the negative. That the question was then put whether the committee

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would agree to the motion of Mr. Whiting, and it was determined in the negative.

Mr. P, Hone further reported that the committee had considered the whole subject committed to them, and had agreed upon the following sections, as the proposed law to amend the charter of the city.

Sec. 1. The legislative power of the city of New-York, shall be vested in a Board of Aldermen, and a Board of Assistants, who together shall form the Common Council of the city.

Sec. 2. Each ward of the city shall be entitled to elect one person, to be denominated the Alderman of the ward, and the persons so chosen, together, shall form the Board of Alderman; and each ward shall also be entitled to elect two persons to be denominated Assistant Aldermen, and the persons so chosen, together, shall form the Board of Assistants,

Sec. 3. The Aldermen shall be chosen for two years. The Assistant Aldermen for one year; and no person shall be eligible to either office, who shall not, at the time of his election, be a resident of the ward for which he is chosen.

Sec. 4. At the first meeting of the Board of Aldermen, after the first election of Aldermen, subsequent to the passage of this law, they shall cause the Aldermen elected to be divided into two classes, each class containing, as near as may be, the same number: the classes to be numbered one—two. The seats of the first class shall become vacant at the end of the first year, and of the second class at the end of the second year; so that one half, as nearly as may be, of the whole number of Aldermen, shall thereafter be annually elected.

Sec. 5. The annual election for charter officers shall commence on the second Tuesday in April, and the officers elected, shall be sworn into office on the second Tuesday in May thereafter; and all such elections

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shall be notified, held and conducted by the same inspectors, in the same manner, with the like powers, and during the same number of days, as the election for members of Assembly of the state are notified, held and conducted.

Sec. 6. The first election for charter officers after the passage of this law, shall take place on the second Tuesday in April, one thousand eight hundred and thirty-one; and all those persons who shall have been elected under the former laws regulating the election of charter officers, and shall be in office at the time of the passage of this law, shall continue in office, or hold over, until the officers elected under this law shall be entitled to be sworn into office.

Sec. 7. The Board of Aldermen shall have power to direct a special election to be held, to supply the place of any Alderman whose seat shall become vacant by death, removal from the city, resignation or otherwise. If a special election be not directed, the vacancy shall be supplied at the next general election. And the Board of Assistants shall also have power to direct a special election, to supply any vacancy that may occur in the Board of Assistants. The person elected to supply such vacancy, shall hold his seat only for the residue of the term of office of his immediate predecessor.

Sec. 8. The boards shall meet in separate chambers, and a majority of each shall be a quorum to do business. Each board shall appoint a president from its own body; and shall also choose its clerk and other officers, determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each board shall keep a journal of its proceedings, and the doors of each shall be kept open, except when the public welfare shall require secrecy: and all resolutions, and reports of committees, which shall recom-

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mend any specific improvement, involving the appropriation of public monies, or taking or assessing the citizens of said city, shall be published immediately after the adjournment of the board, under the authority of the Common Council, in all the newspapers employed by the Corporation; and whenever a vote is taken in relation thereto, the ayes and noes shall be called, and published in the same manner.

Sec. 9. Each board shall have authority to compel the attendance of absent members, to punish its members for disorderly behaviour, and to expel a member, with the concurrence of two-thirds of the members elected to the board, and the member so expelled, shall, by such expulsion, forfeit all his rights and powers as an Alderman or Assistant Alderman.

Sec. 10. The stated and occasional meetings of the Common Council, shall be regulated by their own ordinances, and both boards may meet on the same, or on different days, as they may judge expedient.

Sec. 11. Any law, ordinance or resolution of the Common Council, may originate in either board; and when it shall have passed one board, may be rejected or amended by the other.

Sec. 12. No member of either board, shall, during the period for which he was elected, be appointed to, or be competent to hold any office of which the emoluments are paid from the city treasury, or by fees directed to be paid by any ordinance or act of the Common Council, or be directly or indirectly interested in any contract, the expenses or consideration thereof, are to be paid under any ordinance of the Common Council; but this section shall not be construed to deprive any Alderman or Assistant of any emoluments or fees which he is entitled to, by virtue of his office.

Sec. 13. Every act, ordinance or resolution which shall have passed the two boards of the Common Coun-

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Sec. 11. No member of either board, shall, during the period for which he was elected, be appointed to, or be competent to hold any office of which the emoluments are paid from the city treasury, or by fees directed to be paid by any ordinance or act of the Common Council, or be directly or indirectly interested in any contract, the expenses or consideration thereof, are to be paid under any ordinance of the Common Council; but this section shall not be construed to deprive any Alderman or Assistant of any emoluments or fees which he is entitled to, by virtue of his office.

Sec. 12. Every act, ordinance or resolution which shall have passed the two boards of the Common Council, before it shall take effect, shall be presented duly certified, to the Mayor of the city, for his approbation. If he approve, he shall sign it; if not, he shall return it, with his objections, to the board in which it originated, within ten days thereafter, or if the Common Council be not then in session, at their next stated meeting. The board to which it shall be returned, shall enter the objections at large on their journal, and cause the same to be published in one or more of the public newspapers of the city.

Sec. 13. The board to which such act, ordinance or resolution shall have been so returned, shall, after the expiration of not less than ten days thereafter, proceed to re-consider the same. If, after such re-consideration, a majority of the members elected to the board, shall agree to pass the same, it shall be sent, together with the objections, to the other board, by which it shall be likewise re-considered; and if approved by a majority of all the members elected to such board, it shall take effect, as an act or law of the Corporation. In all such cases the votes of both boards shall be determined by yeas and nays, and the names of the persons voting for, and against the passage of the mea-

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sure reconsidered, shall be entered on the journal of each board respectively.

Sec. 14. If the Mayor shall not return any act, ordinance, or resolution so presented to him, within the time above limited for that purpose, it shall take effect in the same manner as if he had signed it.

Sec. 15. Neither the Mayor nor Recorder of the city of New-York, shall hereafter be members of the Common Council thereof.

Sec. 16. Whenever there shall be a vacancy in the office of Mayor, and whenever the Mayor shall be absent from the city, or be prevented by sickness, from attending to the duties of his office, the President of the board of Aldermen shall act as Mayor, and shall possess all the rights and powers of the Mayor during the continuance of such vacancy, absence, or disability.

Sec. 17. It shall be the duty of the Mayor—

First. To communicate to the Common Council, at least once a year, and oftener if he shall deem it expedient, a general statement of the situation and condition of the city, in relation to its government, finances, and improvements.

Second. To recommend to the adoption of the Common Council, all such measures connected with the police, security, health, cleanliness, and ornament of the city, and the improvement of its government and finances, as he shall deem expedient.

Third. To be vigilant and active in causing the laws and ordinances for the government of the city, to be duly executed and enforced.

Fourth. To exercise a constant supervision and control over the conduct and acts of all subordinate officers, and to receive and examine into all such complaints as may be preferred against any of them, for violation or neglect of duty; and generally to per-

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form all such duties as may be prescribed to him by the charter and city ordinances, and the laws of this State and the United States.

Sec. 18. Annual and occasional appropriations shall be made by proper ordinances of the Common Council, for every branch and object of city expenditure, nor shall any money be drawn from the city treasury, except the same shall have been previously appropriated to the purpose for which it is drawn.

Sec. 19. The Common Council shall not have authority to borrow any sums of money whatever on the credit of the Corporation, except in anticipation of the revenue of the year in which such loan shall be made, unless authorised by a special act of the legislature.

Sec. 20. It shall be the duty of the Common Council to publish, two months before the annual election of charter officers, in each year, for the general information of the citizens of New-York, a full and detailed statement of the receipts and expenditures of the corporation, during the year ending on the first day of the month in which such publication is made; and in every such statement the different sources of city revenue, and the amount received from each, the several appropriations made by the Common Council, the objects for which the same were made, and the amount of moneys expended under each, the moneys borrowed on the credit of the corporation, the authority under which each loan was made, and the terms on which the same was obtained, shall be clearly and particularly specified.

Sec. 21. The executive business of the Corporation of New-York shall hereafter be performed by distinct departments, which it shall be the duty of the Common Council to organize and appoint for that purpose.

Sec. 22. It shall be the duty of the Common Council to provide for the accountability of all officers, and

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other persons to whom the receipt or expenditure of the funds of the city shall be entrusted, by requiring from them sufficient security for the performance of their duties or trust, which security shall be annually renewed.

Sec. 23. The clerk of the board of Aldermen shall, by virtue of his office, be clerk of the Common Council, and shall perform all the duties heretofore performed by the clerk of the Common Council, except such as shall be assigned to the clerk of the board of Assistant Aldermen. And it shall be his duty to keep open for inspection, at all reasonable times, the records and minutes of the proceedings of the Common Council, except such as shall be specially ordered otherwise.

Sec. 24. Such parts of the charter of the city of New-York, and of the several acts of the legislature amending the same, as are not inconsistent with the provisions of this law, shall not be construed as repealed, modified, or in any manner affected thereby, but shall continue and remain in full force.

Mr. President having put the question shall these amendments pass, the same was determined in the affirmative.

The ayes and noes being called for by more than seven members, those who voted in the affirmative are—

Messrs. Bolton, Leonard, Leggett, Gilford, jr., Demilt, P. Hone, Stagg, Selden, P. McCartee, Van Wagenen, Holmes, Williams, Mount, Verplanck, Van Beuren, D. McCarthy, Bradhurst, H. H. Schieffelin, Townsend, Duer, Burling, Cooper, Morris, Arnold, Burnham, Miller, Allen, Stilwell, Munson, Mills, Sherman, W. M. Johnson, Hedley, Comstock, Boyd, Oakford, Emmons, Bloodgood, Town, Suydam.

Those who voted in the negative are—

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Messrs. Lorillard, Whiting, McEwen, Bogardus, Piggott, Schureman.

Affirmative—40. Negative—6.

On motion of Mr. Arnold the names of the absent members were called as follows:

Messrs. Tibbits, Meeks, Noah, J. Hone, Alley, White, Storm, Tucker, Jay, Scott, Lyon, E. Schieffelin, Randolph, Morss, Fream, Schuyler, Thompson, Andries, Hall, Reynolds, Bancker, J. Johnson, Macneven.

Mr. Selden offered the following resolution:

"*Resolved*, That the members of this Convention who are present, and also those absent who approve the amendments to the city charter, sign the same as engrossed."

Mr. President having put the question shall this resolution pass, the same was determined in the affirmative.

Mr. P. Hone then offered the following resolution:

Resolved, That the committee appointed under the third resolution of the proceedings of this day, be instructed to prepare an address to the people, explaining the provisions of the act now recommended to be adopted, and urging their sanction to the same.

Mr. President having put the question shall this resolution pass, the same was determined in the affirmative.

Mr. Hedley offered for consideration the following resolution:

Resolved, That the printers of the several newspapers in this city, be requested to publish the amendments to the charter recommended by this Convention, signed by the President and Secretaries, and also the resolutions of this Convention, submitting the same to the people.

On motion of Mr. Piggott,

Ordered, That the same do lie upon the table.

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Mr. Allen offered the following resolution:

Resolved, That the expenses of this Convention be referred to the committee appointed under the third resolution of the proceedings of this day, of which Mr. Duer is chairman, with directions to examine the same, and ask payment thereof from the Common Council of this city.

Mr. President having put the question shall this resolution pass, the same was determined in the affirmative.

Mr. Town offered the following resolution:

Resolved, That the thanks of this Convention be presented to the Hon. William Paulding, for the able and impartial manner in which he has discharged the duties of the chair.

The question having been put by one of the Secretaries, shall this resolution pass, the same was determined in the affirmative unanimously.

Whereupon Mr. Paulding rose and addressed the Convention in the following words:

GENTLEMEN:

I am deeply impressed with a sense of the kind and indulgent language of the resolution you have just passed. It is indeed extremely gratifying to me, to receive from this respectable and enlightened body of my fellow citizens, their unanimous approbation of my conduct, as the presiding officer of this Convention. Appreciating, most highly, the flattering testimonial of your good opinion, I shall, be assured Gentlemen, ever retain it in grateful remembrance.

While, Gentlemen, I indulge the hope that the result of our deliberations will prove acceptable, and useful to this community, permit me to offer to you my sincere and ardent wishes, that you may long be blessed with health, and that your future days may be prosperous and happy.

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Whereupon, on motion,

Resolved, That this Convention do now adjourn, *sine die*, subject, however, to be called together again by the Committee of Fourteen, raised this day, of which Mr. Duer is chairman, if, in the opinion of that committee, it shall become expedient so to do.

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AMENDMENTS

TO

The Charter of the City of New York,

AS ADOPTED IN CONVENTION

September 1829.

Sec. 1. The legislative power of the city of New-York shall be vested in a board of Aldermen and a board of Assistants, who, together, shall form the Common Council of the city.

Sec. 2. Each ward of the city shall be entitled to elect one person to be denominated the Alderman of the ward, and the persons so chosen, together, shall form the board of Aldermen; and each ward shall also be entitled to elect one person to be denominated Assistant Alderman, and the persons so chosen, together, shall form the board of Assistants.

Sec. 3. The Aldermen and Assistant Aldermen shall be chosen for one year, and no person shall be eligible to either office, who shall not at the time of his election be a resident of the ward for which he is chosen.

Sec. 4. The annual election for charter officers shall commence on the second Tuesday in April, and the officers elected shall be sworn into office on the second Tuesday in May thereafter. And all such elections shall be notified, held and conducted by Inspectors appointed in the same manner, with the like powers, and during the same number of days, as the election for members of Assembly of the State are notified, held and conducted.

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Sec. 5. The first election for charter officers after the passage of this law, shall take place on the second Tuesday in April, 1831, and all those persons who shall have been elected under the former laws regulating the election of charter officers, and shall be in office at the time of the passage of this law, shall continue in office, or hold over, until the officers elected under this law shall be entitled to be sworn into office.

Sec. 6. The board of Aldermen shall have power to direct a special election to be held to supply the place of any Alderman whose seat shall become vacant by death, removal from the city, resignation, or otherwise. If a special election be not directed, the vacancy shall be supplied at the next general election. And the board of Assistants shall also have power to direct a special election to supply any vacancy that may occur in the board of Assistants. The person elected to supply such vacancy shall hold his seat only for the residue of the term of office of his immediate predecessor.

Sec. 7. The boards shall meet in separate chambers, and a majority of each shall be a quorum to do business. Each board shall appoint a president from its own body; and shall also choose its clerk and other officers, determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each board shall keep a journal of its proceedings, and the doors of each shall be kept open, except when the public welfare shall require secrecy: and all resolutions, and reports of committees, which shall recommend any specific improvement, involving the appropriation of public monies, or taxing or assessing the citizens of said city, shall be published immediately after the adjournment of the board, under the authority of the Common Council, in all the newspapers employed

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by the Corporation; and whenever a vote is taken in relation thereto, the ayes and noes shall be called, and published in the same manner.

Sec. 8. Each board shall have authority to compel the attendance of absent members, to punish its members for disorderly behaviour, and to expel a member, with the concurrence of two-thirds of the members elected to the board, and the member so expelled, shall, by such expulsion, forfeit all his rights and powers as an Alderman or Assistant Alderman.

Sec. 9. The stated and occasional meetings of the Common Council, shall be regulated by their own ordinances, and both boards may meet on the same, or on different days, as they may judge expedient.

Sec. 10. Any law, ordinance or resolution of the Common Council, may originate in either board; and when it shall have passed one board, may be rejected or amended by the other.

Sec. 11. No member of either board, shall, during the period for which he was elected, be appointed to, or be competent to hold any office of which the emoluments are paid from the city treasury, or by fees directed to be paid by any ordinance or act of the Common Council, or be directly or indirectly interested in any contract, the expenses or consideration thereof, are to be paid under any ordinance of the Common Council; but this section shall not be construed to deprive any Alderman or Assistant of any emoluments or fees which he is entitled to, by virtue of his office.

Sec. 12. Every act, ordinance or resolution which shall have passed the two boards of the Common Council, before it shall take effect, shall be presented duly certified, to the Mayor of the city, for his approbation. If he approve, he shall sign it; if not, he shall return it, with his objections, to the board in which it originated, within ten days thereafter, or if the Common Coun-

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cil be not then in session, at their next stated meeting. The board to which it shall be returned, shall enter the objections at large on their journal, and cause the same to be published in one or more of the public newspapers of the city.

Sec. 13. The board to which such act, ordinance or resolution shall have been so returned, shall, after the expiration of not less than ten days thereafter, proceed to re-consider the same. If, after such re-consideration, a majority of the members elected to the board, shall agree to pass the same, it shall be sent, together with the objections, to the other board, by which it shall be likewise re-considered; and if approved by a majority of all the members elected to such board, it shall take effect, as an act or law of the Corporation. In all such cases the votes of both boards shall be determined by yeas and nays, and the names of the persons voting for, and against the passage of the measure reconsidered, shall be entered on the journal of each board respectively.

Sec. 14. If the Mayor shall not return any act, ordinance, or resolution so presented to him, within the time above limited for that purpose, it shall take effect in the same manner as if he had signed it.

Sec. 15. Neither the Mayor nor Recorder of the city of New-York, shall hereafter be members of the Common Council thereof.

Sec. 16. Whenever there shall be a vacancy in the office of Mayor, and whenever the Mayor shall be absent from the city, or be prevented by sickness, from attending to the duties of his office, the President of the board of Aldermen shall act as Mayor, and shall possess all the rights and powers of the Mayor during the continuance of such vacancy, absence, or disability.

Sec. 17. It shall be the duty of the Mayor—

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First. To communicate to the Common Council, at least once a year, and oftener if he shall deem it expedient, a general statement of the situation and condition of the city, in relation to its government, finances, and improvements.

Second. To recommend to the adoption of the Common Council, all such measures connected with the police, security, health, cleanliness, and ornament of the city, and the improvement of its government and finances, as he shall deem expedient.

Third. To be vigilant and active in causing the laws and ordinances for the government of the city, to be duly executed and enforced.

Fourth. To exercise a constant supervision and control over the conduct and acts of all subordinate officers, and to receive and examine into all such complaints as may be preferred against any of them, for violation or neglect of duty; and generally to perform all such duties as may be prescribed to him by the charter and city ordinances, and the laws of this State and the United States.

Sec. 18. Annual and occasional appropriations shall be made by proper ordinances of the Common Council, for every branch and object of city expenditure, nor shall any money be drawn from the city treasury, except the same shall have been previously appropriated to the purpose for which it is drawn.

Sec. 19. The Common Council shall not have authority to borrow any sums of money whatever on the credit of the Corporation, except in anticipation of the revenue of the year in which such loan shall be made, unless authorised by a special act of the legislature.

Sec. 20. It shall be the duty of the Common Council to publish, two months before the annual election of charter officers, in each year, for the general information of the citizens of New-York, a full and detail-

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ed statement of the receipts and expenditures of the corporation, during the year ending on the first day of the month in which such publication is made; and in every such statement the different sources of city revenue, and the amount received from each, the several appropriations made by the Common Council, the objects for which the same were made, and the amount of moneys expended under each, the moneys borrowed on the credit of the corporation, the authority under which each loan was made, and the terms on which the same was obtained, shall be clearly and particularly specified.

Sec. 21. The executive business of the Corporation of New-York shall hereafter be performed by distinct departments, which it shall be the duty of the Common Council to organize and appoint for that purpose.

Sec. 22. It shall be the duty of the Common Council to provide for the accountability of all officers, and other persons to whom the receipt or expenditure of the funds of the city shall be entrusted, by requiring from them sufficient security for the performance of their duties or trust, which security shall be annually renewed.

Sec. 23. The clerk of the board of Aldermen shall, by virtue of his office, be clerk of the Common Council, and shall perform all the duties heretofore performed by the clerk of the Common Council, except such as shall be assigned to the clerk of the board of Assistant Aldermen. And it shall be his duty to keep open for inspection, at all reasonable times, the records and minutes of the proceedings of the Common Council, except such as shall be specially ordered otherwise.

Sec. 24. Such parts of the charter of the city of New-York, and of the several acts of the legislature amending the same, as are not inconsistent with the

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provisions of this law, shall not be construed as repealed, modified, or in any manner affected thereby, but shall continue and remain in full force.

In Convention, Sept. 28th, 1829.

Resolved, That the members of this convention who are present, and also those absent, who approve the amendments to the city charter, sign the same as engrossed.

Done in Convention at the City Hall in the city of New-York, the twenty-eighth day of September in the year one thousand eight hundred and twenty-nine, and of the independence of the United States of America, the fifty-third.

In witness whereof, we have hereunto subscribed our names.

Attest. WILLIAM PAULDING,
President, and Delegate from the fifth ward.

A. DEAN,
RICHARD HATFIELD, } Secretaries.

Thomas H. Leggett,	Joseph Johnson,
John Van Buren,	Dennis McCarthy,
Thos. Bolton,	Gideon Tucker,
Jno. Leonard,	Wm. Jas. Macnevin,
Charles Mills,	Charles Oakford,
William M. Johnson.	Nathaniel Boyd,
Henry H. Schieffelin,	Philip Hone,
Peter Augustus Jay,	John R. Hedley,
P. S. Townsend,	Charles Town,
G. C. Verplanck,	Benjamin De Witt,
Dudley Selden,	Saul Alley,
Saml. Andreas,	Michael Burnham,
J. M. Bradhurst,	Abraham Bloodgood,
Saml. Stilwell,	William Thompson,
Peter McCartee,	Stephen Allen,
Eldad Holmes,	Richard E. Mount,
Francis Cooper,	Evert A. Bancker,

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Garret Storm,	H. Van Wagenen,
Reuben Munson,	Thomas Morris,
Alpheus Sherman,	John Hone,
Lambert Suydam,	John Duer,
Joseph Meeks,	Richard S. Williams,
N. T. Arnold,	Elisha Tibbets,
Peter Stagg,	John Morss,
James Burling,	Isaac Emmons,
Charles Henry Hall,	E. D. Comstock,
Thomas Miller,	Samuel Guilford, jr.
Nathl. Reynolds,	Effingham Schieffelin.

I, Thomas Jeremiah, Clerk of the city and county of New-York, do hereby certify, that the preceding is a true copy of the proceedings of the Convention for the purpose of revising and amending the charter of the city of New-York, on file in my office.

In testimony whereof, I have hereunto set
[L. S.] my hand and affixed my seal of office the 7th day of September, 1835.

THOS. JEREMIAH, Clerk.

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ERRATA.

Page 6, line 5 from the top, insert *Aldermen* after Mayor.

7, line 10 from bottom, insert *or Deputy Mayors* after Mayors.

29, line 6 from the top, read *not* for now.

40, at the end of 3rd line from the top, insert *then down through the middle of Smith street.*

42, in 3rd line from the top, after the words water mark, insert, *and so to run along the said river, creek or run on West Chester side at low water mark.*

53, line 13th from top, for distiesses, read *distress.*

60, line 3rd, from bottom, for species, read *spices.*

61, line 13 from top, after the word being, insert, *or his deputy for the time being.*

78 line 10 from top, after the word appointed insert, *and every of them respectively.*

91, line 8 from bottom, for lanes, read *lands.*

102, sect. 13, line 2, insert *shall* before have.

113, 3rd line from bottom and also in the bottom line, for 96 read 36.

115, line 4th from top, for trustees read *justices.*

144, line 15th from top, for 3rd, read *9th.*

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